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September 16, 2015

**Re: Over 100 new Support Letters for DotMusic's .MUSIC Community-Based Application (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"),

Please accept the attached, over 100 new Letters of Support for DotMusic Limited and its .MUSIC multi-stakeholder, community-based application with ID 1-1115-14110.<sup>1</sup>

We kindly request that the attached Letters of Support be considered by the EIU Panel as an additional attachment and Letter of Support to Question 20f of the DotMusic application during the .MUSIC Community Priority Evaluation ("CPE") process.

As per the ICANN CPE FAQ,<sup>2</sup> we electronically submit the attached Letter of Support and request that it is posted on the ICANN Correspondence page.

Respectfully Submitted,

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Multi-Stakeholder Governance Board: <http://www.music.us/board>

<sup>1</sup> See <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>

<sup>2</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-10sep14-en.pdf>, Pg. 5

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: mrice3@sbcglobal.net, Sep 8 '15 ip: 130.182.30.211

Name: Mitch Rice

Title: President

Organization\*: The Rhythmyth

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

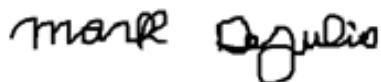
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: dejulioballadeer@gmail.com, Sep 8 '15 ip: 70.173.89.73

Name: Mark De Julio

Title: Mark De Julio/De Julio X 2

Organization\*: Musical Entertainment Artists

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support which supports the responsible, trusted and safe operation of the .MUSIC top-level domain under a community-based, multi-stakeholder governance model with Enhanced Safeguards tailored to serve the legitimate interests of the entire global Music Community.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>2</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>3</sup> Our organization also supports the positions expressed in the letter<sup>4</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>5</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind ” and for ICANN “to expeditiously implement appropriate changes to address [concerns].” We also support the positions in the letter<sup>6</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>3</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>4</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>5</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

<sup>6</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>



the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their “support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest.”

Please accept this Letter of Support for DotMusic Limited’s .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>7</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>8</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN’s 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an “(industry) community” with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear “(industry) community” supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>9</sup> As such, DotMusic’s community application should overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string given the EIU’s consistent rationale with respect to the prevailing “(industry) community” CPE determinations for .HOTEL, .RADIO and .SPA. Music community members participate in a shared system of creation, distribution and promotion of music with common norms and communal behavior i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music, including a shared legal framework

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<sup>7</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>8</sup> <http://music.us/events>

<sup>9</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

- in a regulated sector governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments<sup>10</sup> with shared rules and communal regulations;<sup>11</sup>
4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>12</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>13</sup>
  5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>14</sup>
  6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>15</sup>
  7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>16</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification

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<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

<sup>12</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>13</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>14</sup> <http://music.us/comparison.pdf>

<sup>15</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>16</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN,<sup>17</sup> ISRC,<sup>18</sup> ISWC,<sup>19</sup> ISNI<sup>20</sup>). As such, the string is aligned with DotMusic’s Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>21</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;

8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, providing compelling evidence and “conclusions that are compelling and defensible”<sup>22</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria and thus should prevail, agreeing that the defined community is accurate and matches the applied-for string;<sup>23</sup>
9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known

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<sup>17</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and

[http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>18</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>19</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>20</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>21</sup> <http://music.us/expert/letters>

<sup>22</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>23</sup> <http://music.us/expert/letters>

by most people<sup>24</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>25</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>26</sup>) matches with the string;

10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>27</sup>
11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>28</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>29</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under

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<sup>24</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>25</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>26</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadapplication/1392?t:ac=1392>, 20a

<sup>27</sup> <http://music.us/board/>

<sup>28</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate or bad faith registrations. This phase provides better protection against abuse or impersonation, offers established community members a cost-effective alternative to the Sunrise phase (or an Early Access Program - <http://domainnamewire.com/2013/11/14/some-new-tlds-will-run-early-access-programs-for-the-landrush-phase>), and helps spur Industry adoption. This process provides increased relevancy for .MUSIC names while preventing cybersquatting of famous music brand names that could also create user confusion. Given DotMusic’s naming policies, Community members that do not have famous music names may register their names in the subsequent phase without the fear of famous artists registering their names. Furthermore, to ensure fair allocation and competition, Community members that do not belong to MCMOs can currently join many MCMOs for free if they want to secure their names during the MCMO phase. As such, social benefits will significantly exceed social costs.

<sup>29</sup> DotMusic’s GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts’ DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic’s GPML is music-tailored and does not have such costs.

its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>30</sup>

13. has partnered with Afilias,<sup>31</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
15. is accountable to the global Music Community through its Public Interest Commitments<sup>32</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

DotMusic clearly exceeds the criteria required to pass Community Priority Evaluation, has provided music-tailored Public Interest Commitments, and responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests.

Respectfully submitted,

*Robert Sirman*

Signature: robjohsir@gmail.com, Sep 4 '15 ip: 65.95.116.154

Name: Robert Sirman

Title: Acting President and CEO

Organization: The George Cedric Metcalf Charitable Foundation

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<sup>30</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>31</sup> <http://www.afilias.info/about-us>

<sup>32</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails:downloadpicposting/1392?t:ac=1392>

Dr. Steve Crocker, Chairman of the ICANN Board;  
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Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support which supports the responsible, trusted and safe operation of the .MUSIC top-level domain under a community-based, multi-stakeholder governance model with Enhanced Safeguards tailored to serve the legitimate interests of the entire global Music Community.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>2</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>3</sup> Our organization also supports the positions expressed in the letter<sup>4</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>5</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind ” and for ICANN “to expeditiously implement appropriate changes to address [concerns].” We also support the positions in the letter<sup>6</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from

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the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their “support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest.”

Please accept this Letter of Support for DotMusic Limited’s .MUSIC community-based application because DotMusic:

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2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>8</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN’s 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an “(industry) community” with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear “(industry) community” supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>9</sup> As such, DotMusic’s community application should overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string given the EIU’s consistent rationale with respect to the prevailing “(industry) community” CPE determinations for .HOTEL, .RADIO and .SPA. Music community members participate in a shared system of creation, distribution and promotion of music with common norms and communal behavior i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music, including a shared legal framework

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<sup>7</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>8</sup> <http://music.us/events>

<sup>9</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

- in a regulated sector governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments<sup>10</sup> with shared rules and communal regulations;<sup>11</sup>
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  7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>16</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification

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<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

<sup>12</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>13</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>14</sup> <http://music.us/comparison.pdf>

<sup>15</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>16</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN,<sup>17</sup> ISRC,<sup>18</sup> ISWC,<sup>19</sup> ISNI<sup>20</sup>). As such, the string is aligned with DotMusic’s Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>21</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;

8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, providing compelling evidence and “conclusions that are compelling and defensible”<sup>22</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria and thus should prevail, agreeing that the defined community is accurate and matches the applied-for string;<sup>23</sup>
9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known

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<sup>17</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and

[http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>18</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>19</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>20</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>21</sup> <http://music.us/expert/letters>

<sup>22</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>23</sup> <http://music.us/expert/letters>

by most people<sup>24</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>25</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>26</sup>) matches with the string;

10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>27</sup>
11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>28</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>29</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under

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<sup>24</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>25</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>26</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>27</sup> <http://music.us/board/>

<sup>28</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate or bad faith registrations. This phase provides better protection against abuse or impersonation, offers established community members a cost-effective alternative to the Sunrise phase (or an Early Access Program - <http://domainnamewire.com/2013/11/14/some-new-tlds-will-run-early-access-programs-for-the-landrush-phase>), and helps spur Industry adoption. This process provides increased relevancy for .MUSIC names while preventing cybersquatting of famous music brand names that could also create user confusion. Given DotMusic’s naming policies, Community members that do not have famous music names may register their names in the subsequent phase without the fear of famous artists registering their names. Furthermore, to ensure fair allocation and competition, Community members that do not belong to MCMOs can currently join many MCMOs for free if they want to secure their names during the MCMO phase. As such, social benefits will significantly exceed social costs.

<sup>29</sup> DotMusic’s GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts’ DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic’s GPML is music-tailored and does not have such costs.

its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>30</sup>

13. has partnered with Afilias,<sup>31</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
15. is accountable to the global Music Community through its Public Interest Commitments<sup>32</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

DotMusic clearly exceeds the criteria required to pass Community Priority Evaluation, has provided music-tailored Public Interest Commitments, and responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests.

Respectfully submitted,

*Kevin Guillory, Jr.*

Signature: kguillory1031@gmail.com, Sep 5 '15 ip: 71.81.49.82

Name: Kevin Guillory, Jr.

Title: Independent musician

Organization: N/A

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<sup>30</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>31</sup> <http://www.afilias.info/about-us>

<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadpicposting/1392?t:ac=1392>

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

Signature: mathias@mylo.be, Sep 6 '15 ip: 81.82.206.49

Name: Mathias Buckinx

Title: Founder

Organization\*: Eastwood

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

**Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support which supports the responsible, trusted and safe operation of the .MUSIC top-level domain under a community TLD multi-stakeholder governance model with Enhanced Safeguards tailored to serve the legitimate interests of the entire global Music Community.

Respecting and protecting music rights serves both the global music community and the public interest. Our organization supports the position of the International Federation of the Phonographic Industry,<sup>2</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>3</sup> Our organization also supports the positions expressed in the letter<sup>4</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Shekler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>5</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind ” and for ICANN “to expeditiously implement appropriate changes to address [concerns].” We also support the positions in the letter<sup>6</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a

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<sup>1</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>3</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>4</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>5</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

<sup>6</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

majority of the global music publishing community, which expressed their “support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest.”

Please accept this Letter of Support for DotMusic Limited’s .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>7</sup>
2. is supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others;<sup>8</sup>
3. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition files against it.<sup>9</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating any last minute spurious letter of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>10</sup>
4. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community;
5. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>11</sup>

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<sup>7</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>8</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

<sup>9</sup> The public comment window has been open since 13 June 2012 for over 3 years. If there was any opposition of reasoned nature then any relevant music organization would have already voiced such concerns.

<sup>10</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>11</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

6. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>12</sup>
7. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase for Community members belonging to Music Community Member Organizations; naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List to protect famous music brands;
8. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>13</sup> and
9. is accountable to the global Music Community through its Public Interest Commitments<sup>14</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

Music is recognized by ICANN and GAC as a regulated sector, comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music.<sup>15</sup> As such, the string is aligned with DotMusic's Community definition ("a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music"<sup>16</sup>). Its Nexus matches the applied-for string because it

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<sup>12</sup> <http://music.us/board/>

<sup>13</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>14</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadpicposting/1392?t:ac=1392>

<sup>15</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>16</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a



represents the Community and allows all constituents to register a .MUSIC domain without any conflict of interests, over-reaching or discrimination.

DotMusic clearly exceeds the criteria required to pass Community Priority Evaluation, has provided music-tailored Public Interest Commitments, and responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests.

Respectfully submitted,



Signature: rmgtech@vianet.ca, Aug 13 '15 ip: 74.14.140.158

Name: Rene Gosselin

Title: Senior Technician

Organisation: Steel Communications

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Lisa Sniderman*

Signature: lis@aoedemuse.com, Sep 8 '15 ip: 71.202.145.247

Name: Lisa Sniderman

Title: Owner, Aoede

Organization\*: Aoede

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

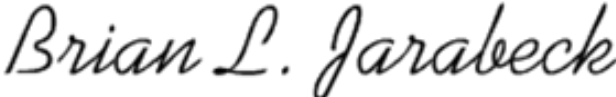
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: kap@awedog.com, Sep 8 '15 ip: 162.247.149.253

Name: Brian L. Jarabeck

Title: Artist/Owner

Organization\*: KGP

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

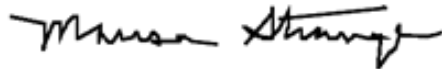
<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: strange523@yahoo.com, Sep 8 '15 ip: 108.42.57.56

Name: Marisa Strange

Title: Music Lover

Organization\*: .music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: jhunlimited\_llc@yahoo.com, Sep 8 '15 ip: 75.38.219.114

Name: John Gregory Harney

Title: Principal Composer, Guitarist, Publisher, Owner

Organization\*: JHUnlimited L.L.C.

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

Signature: whizkidsgirl@gmail.com, Sep 8 '15 ip: 166.170.48.49

Name: Hillorie McLarty

Title: Advertising & Marketing

Organization\*: Music Connection Magazine

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

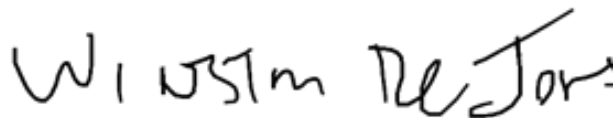
<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Winston De Jesus". The signature is written in a cursive, slightly slanted style.

Signature: winstondejesus@gmail.com, Sep 8 '15 ip: 172.56.19.118

Name: Winston De Jesus

Title: Composer- Arranger- Orchestrator-Producer- Pianist

Organization\*: Winstondejesus Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: mark@consumerwatchdog.org, Sep 8 '15 ip: 108.47.15.39

Name: Mark Reback

Title: Musician

Organization\*: Brooklyn Pets

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Bruce Mandel*

Signature: mandelbruce@hotmail.com, Sep 8 '15 ip: 184.53.0.238

Name: Bruce Mandel

Title: Songwriter

Organization\*: Bruce Mandel

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

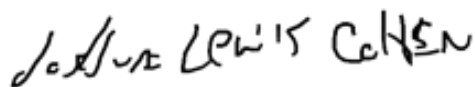
<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Joshua Lewis Cohen". The signature is written in a cursive, slightly slanted style.

Signature: info@joshlewismusic.com, Sep 8 '15 ip: 70.211.136.70

Name: Joshua Lewis Cohen

Title: Musician

Organization\*: Josh Lewis Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Katharina Walker*

Signature: tina@kingedwardmusic.com, Sep 8 '15 ip: 75.82.113.97

Name: Katharina Walker

Title: Managing Director

Organization\*: King Edward Music Group

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: jess@jesspierce.com, Sep 8 '15 ip: 166.170.52.12

Name: Jessica Sonnenberg

Title: Owner

Organization\*: Rain Records

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Roger Frace', written in a cursive style.

Signature: rogerfrace@yahoo.com, Sep 8 '15 ip: 72.177.3.85

Name: Roger Frace

Title: Musician

Organization\*: the Machine in the Garden

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Dinis Teixeira". The script is fluid and cursive, with the first letters of "Dinis" and "Teixeira" being capitalized and prominent.

Signature: dinis.teixeira@gmail.com, Sep 8 '15 ip: 173.48.66.119

Name: Dinis Teixeira

Title: Singer / Composer

Organization\*: Dtexboston

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Dusty Wakeman". The script is fluid and cursive.

Signature: dusty@mojaveaudio.com, Sep 8 '15 ip: 66.214.244.230

Name: Dusty Wakeman

Title: President

Organization\*: Mojave Audio

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

Signature: wdlc06@sbcglobal.net, Sep 8 '15 ip: 108.223.244.155

Name: Wayne De La Cruz

Title: Owner

Organization\*: Wayne De La Cruz Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: wallis.johnny@yahoo.com, Sep 8 '15 ip: 74.195.145.30

Name: Johnny Wallis

Title: n/a

Organization\*: n/a

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

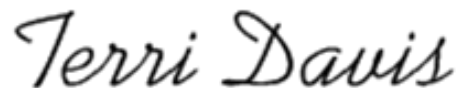
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: terri\_davis1@yahoo.com, Sep 8 '15 ip: 172.56.30.236

Name: Terri Davis

Title: Singer songwriter

Organization\*: IDB Productions

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Thomas C. Pile*

Signature: tom@tompile.com, Sep 8 '15 ip: 108.41.28.96

Name: Thomas C. Pile

Title: owner

Organization\*: Running Dog Music LLC

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: valdavis@gmail.com, Sep 8 '15 ip: 71.161.204.99

Name: Val Davis

Title: Owner

Organization\*: Val Davis Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)


<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anthony Wright', is written over a horizontal line. The signature is somewhat stylized and overlaps the line.

Signature: anthonykwright@mac.com, Sep 8 '15 ip: 165.120.198.36

Name: Anthony wright

Title: musician

Organization\*: What part of freedom

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Dhruva Aliman". The script is fluid and cursive.

Signature: dhruvaaliman@gmail.com, Sep 8 '15 ip: 172.91.119.10

Name: Dhruva Aliman

Title: Composer - Producer

Organization\*: Dhruva Aliman

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: ahlentz@gmail.com, Sep 8 '15 ip: 186.177.17.5

Name: Andy Lentz

Title: Fiddler

Organization\*: Andy Lentz Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)


<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C Theodore". The signature is fluid and cursive, with a long horizontal stroke at the end.

Signature: mrbye@7mail.com, Sep 8 '15 ip: 98.109.31.187

Name: Chris Theodore

Title: Musician

Organization\*: mrbye

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: pattihill@sympatico.ca, Sep 8 '15 ip: 174.94.17.120

Name: Patti Hill

Title: singer/sonwriter

Organization\*: Patti Hill

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Bill Brickus*

Signature: jahdub@hotmail.com, Sep 8 '15 ip: 70.192.139.39

Name: Bill Brickus

Title: Musician producer

Organization\*: JAH DUB Productions

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

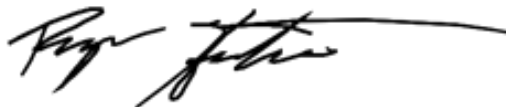
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roger Hector", with a long horizontal flourish extending to the right.

Signature: roger@toptrackartist.com, Sep 8 '15 ip: 98.234.211.20

Name: Roger Hector

Title: CEO

Organization\*: TopTrack LLC

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

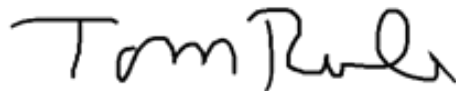
<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: tom@tomrule.info, Sep 8 '15 ip: 70.177.28.72

Name: Tom Rule

Title: The Guy

Organization\*: Tom Rule

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Scot Rammer*

Signature: scotrammer@mac.com, Sep 8 '15 ip: 98.160.228.134

Name: Scot Rammer

Title: Owner

Organization\*: Scot Rammer Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: kishapisha04@aol.com, Sep 8 '15 ip: 68.5.246.61

Name: Ante Novaselic

Title: Mr.

Organization\*: echodrift

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: marcgarciatrumpet@sbcglobal.net, Sep 8 '15 ip: 75.132.0.46

Name: Marc Garcia

Title: Professional trumpet jplayer

Organization\*: Garcia Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: ameentc@sbcglobal.net, Sep 8 '15 ip: 99.107.145.48

Name: Carl "AMEEN" Uqdah

Title: Band Leader

Organization\*: Phaze2

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: scottesmac@gmail.com, Sep 8 '15 ip: 96.39.248.19

Name: Scott Sturgis

Title: Owner

Organization\*: Big Break Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Andre Young Jr". The signature is written in a cursive, flowing style.

Signature: massakamusic@gmail.com, Sep 8 '15 ip: 66.191.36.48

Name: Andre Young

Title: Owner

Organization\*: Massaka Music Media Services

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: alexmusic521@gmail.com, Sep 8 '15 ip: 104.182.174.129

Name: Al-x

Title: Music Artist

Organization\*: Al-x

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: bryn@zwish.net, Sep 8 '15 ip: 124.171.98.145

Name: Bryn Evans

Title: Songwriter

Organization\*: Bryn Evans

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Paul Bordenkircher*

Signature: paul@mesasand.com, Sep 8 '15 ip: 68.224.3.237

Name: Paul Bordenkircher

Title: Managing Member

Organization\*: Mesa Sand Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: mtweaver78@gmail.com, Sep 8 '15 ip: 166.175.184.156

Name: Michael Weaver

Title: Artist

Organization\*: Michael Weaver

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Mytch Meadows/Wytch Doctor*

mytchmeadows@gmail.com, Sep 8 '15 ip: 66.235.12.176

Signature:

Name: Mytch Meadows/Wytch Doctor

Title: Artist/Band

Organization\*: BMI publishing/songwriting

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: richard@richardharrismusic.com, Sep 8 '15 ip: 24.205.35.197

Name: Richard Harris

Title: MR

Organization\*: Richard Harris

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: imuenterprises@yahoo.com, Sep 8 '15 ip: 71.59.151.217

Name: Toby Pollock

Title: Manager

Organization\*: IMU Enterprises LLC Singer/Composer: "Ram Murti"

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: seth.colcord@me.com, Sep 8 '15 ip: 70.211.128.161

Name: Seth Colcord

Title: Mr .

Organization\*: Seth

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

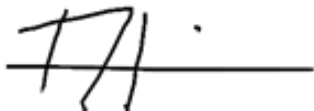
<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'RS', written over a horizontal line.

Signature: rons@orangerecordings.com, Sep 8 '15 ip: 97.113.16.42

Name: Ron Sievers

Title: Owner

Organization\*: Orange Insurance

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Matt Milan". The signature is written in a cursive, slightly slanted style.

Signature: mattmilan27@gmail.com, Sep 8 '15 ip: 75.82.56.202

Name: Matt Milan

Title: Composer

Organization\*: Matt Milan

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: kkinerk@gmail.com, Sep 8 '15 ip: 134.134.139.76

Name: Keith E. Kinerk

Title: Owner

Organization\*: One Ping Only Band

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

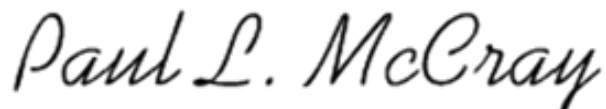
<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul L. McCray". The signature is written in a cursive, slightly slanted style.

Signature: p1mc0412@gmail.com, Sep 8 '15 ip: 76.7.120.189

Name: Paul McCray

Title: Bassist

Organization\*: Sandy Ray and The Cold Shoulders

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Pizzi". The signature is fluid and cursive, with a small mark at the end.

Signature: mtpizzi@msn.com, Sep 8 '15 ip: 108.33.40.183

Name: Michael Pizzi

Title: Owner of Music Services, inc. & mikesolomusic.com

Organization\*: Mike Solo

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

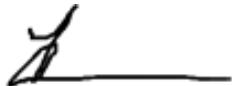
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: ericshreveresearch.com, Sep 8 '15 ip: 50.170.153.90

Name: Eric Shreve

Title: President

Organization\*: Eerie Sound Productions

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: kwjones30@gmail.com, Sep 8 '15 ip: 69.140.44.196

Name: Kevin W Jones

Title: composer

Organization\*: Kevin Jones

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: brad@rocksolid-entertainment.com, Sep 8 '15 ip: 71.204.99.34

Name: Brad Broadrick

Title: Owner

Organization\*: Rock Solid Entertainment

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: info@jimbizer.com, Sep 8 '15 ip: 107.4.6.251

Name: Jim Bizer

Title: President, sole proprietor and Grand Poobah

Organization\*: Jim Bizer

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

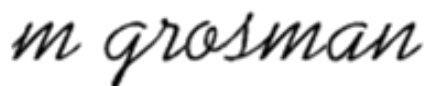
<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "m grosman". The letters are lowercase and written in a cursive, slightly slanted style.

Signature: amgyoubb@gmail.com, Sep 8 '15 ip: 122.104.32.254

Name: michael grosman

Title: manager

Organization\*: connect on UME

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Scratch One*

Signature: info@soundwavestudios.net, Sep 8 '15 ip: 172.56.35.30

Name: Scratch One

Title: Producer | DJ | Recording & Mixing Engineer

Organization\*: Scratch One

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: lauren.grp@sbcglobal.net, Sep 8 '15 ip: 172.6.13.162

Name: Len K

Title: CEO

Organization\*: Lauren Entertainment Group

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in cursive script that reads "kelly sheehan".

Signature: madamebuttons@gmail.com, Sep 8 '15 ip: 172.91.5.15

Name: kelly sheehan

Title: musicican

Organization\*: the healing

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Angela Montilliano*

Signature: mymegamillions@aol.com, Sep 8 '15 ip: 66.8.172.238

Name: Angela Montilliano

Title: CEO

Organization\*: Triple Diamond Records

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: cdccoy@aol.com, Sep 8 '15 ip: 68.99.188.155

Name: Juan Croucier

Title: Bass Player/Singer/Songwriter

Organization\*: RATT

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: craigrb50@yahoo.com, Sep 8 '15 ip: 121.223.144.42

Name: Craig Beardwood

Title: Mr

Organization\*: Craig Beardwood

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: lostbutnotbroken@yahoo.com, Sep 8 '15 ip: 24.185.45.192

Name: Randie O'Neil

Title: Songwriter

Organization\*: `lostbutnotbroken.com`

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: urthstudio@sbcglobal.net, Sep 8 '15 ip: 99.44.160.173

Name: Charlie Faega

Title: Musician, Owner

Organization\*: Tricky Dogs

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "JA Schnaars, Jr". The letters are cursive and fluid.

Signature: jaseys@yahoo.com, Sep 8 '15 ip: 76.181.117.22

Name: Jasey Schnaars

Title: Singer-songwriter

Organization\*: TJC

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

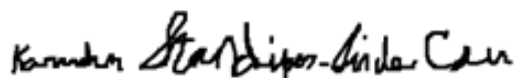
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: ghia40@hotmail.com, Sep 8 '15 ip: 74.61.12.184

Name: Karmahn Standifer-Air de Cour

Title: Vocalist

Organization\*: I'm a music lover

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: chrstphrgrundy@yahoo.com, Sep 8 '15 ip: 70.43.56.146

Name: Christopher Grundy

Title: Owner

Organization\*: Hand and Soil Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

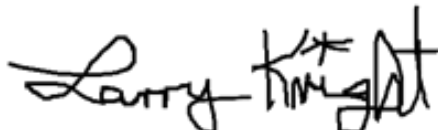
<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Larry Knight". The signature is stylized and written in a cursive-like font.

Signature: fuzzy@ktb.net, Sep 8 '15 ip: 104.173.1.22

Name: Larry Knight

Title: Bandleader

Organization\*: Blowin' Smoke Rhythm & Blues Band

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: haynie23@yahoo.com, Sep 8 '15 ip: 107.221.0.217

Name: Haynie Smith

Title: ceo

Organization\*: emerging music entertainment, llc

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

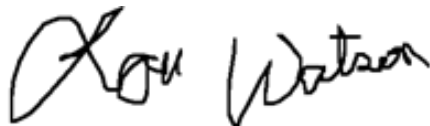
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Louis Watson". The signature is written in a cursive, flowing style.

Signature: watsolo@mac.com, Sep 8 '15 ip: 76.117.189.24

Name: Louis Watson

Title: President

Organization\*: Lou Watson Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

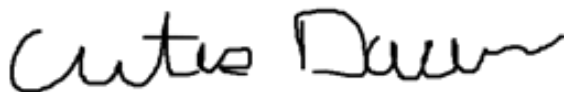
<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: starmakerrecords@gmail.com, Sep 8 '15 ip: 68.224.225.191

Name: curtis davis

Title: president

Organization\*: curcarlin entertainment group

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: ivyleaguemusic@gmail.com, Sep 8 '15 ip: 166.170.48.245

Name: Lucas George

Title: Manager

Organization\*: Ivy League Band

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*butch barnette*

Signature: butchbarnette@yahoo.com, Sep 8 '15 ip: 69.23.225.221

Name: butch barnette

Title: singer/songwriter

Organization\*: butch barnette

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: zeltunes@yahoo.com, Sep 8 '15 ip: 104.34.66.142

Name: steve zelman

Title: leader

Organization\*: Floyd & the Flyboys

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

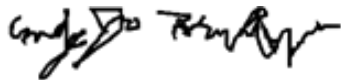
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: cindyjoglow@gmail.com, Sep 8 '15 ip: 172.250.63.43

Name: Cindy Jo Hinkleman

Title: Independent Buisness Owner

Organization\*: Cindy Jo Hinkleman

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Corry Hanna". The script is cursive and fluid.

Signature: guitarzan05@gmail.com, Sep 8 '15 ip: 172.242.240.131

Name: Corry Hanna

Title: musician

Organization\*: Bird 5 Records

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: marybie@gmail.com, Sep 8 '15 ip: 104.10.218.74

Name: Mary Bielinski

Title: Musician

Organization\*: Maryb

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: rand@solardrivemusic.com, Sep 8 '15 ip: 63.155.126.205

Name: Rand Newiger

Title: President/Owner

Organization\*: Solardrive Music and Media

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Robert C. Beland*

Signature: bobbeland@mac.com, Sep 8 '15 ip: 23.241.24.67

Name: Robert C. Beland

Title: Songwriter, Recording Artist

Organization\*: Bob Beland/Wrong Way Works

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Brian D Decker*

Signature: brian.decker@knology.net, Sep 8 '15 ip: 24.42.187.172

Name: Brian D Decker

Title: Musician

Organization\*: The Lack Thereof

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: club.yoga.gcc@gmail.com, Sep 9 '15 ip: 99.21.144.252

Name: Joseph Albano

Title: CEO

Organization\*: Yoga Kirtan Club

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: southie@hotmail.com, Sep 9 '15 ip: 97.80.233.186

Name: MARK COCHRAN

Title: SELF

Organization\*: MUSICAN

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

Signature: fateyemusic@hotmail.com, Sep 8 '15 ip: 71.50.91.116

Name: Asaph Yisrael

Title: Founder & CEO

Organization\*: FatEye Mucic

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

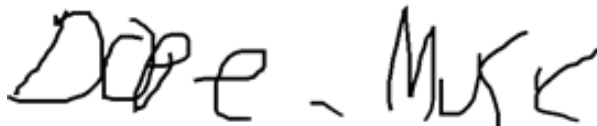
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Dope - Mike". The word "Dope" is written in a stylized, cursive font, and "Mike" is written in a more blocky, cursive font. A horizontal line separates the two words.

Signature: dopemusic2016@gmail.com, Sep 9 '15 ip: 172.56.7.146

Name: Niko Jackson

Title: Artist

Organization\*: Dope\_Music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Arthur Vilorio*

Signature: art.viloria@gmail.com, Sep 9 '15 ip: 174.25.162.89

Name: Arthur Vilorio

Title: owner

Organization\*: Art Vilorio

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

Signature: ddl1803@yahoo.com, Sep 9 '15 ip: 50.183.20.238

Name: Daniel Larsen

Title: Song writer/musician/producer

Organization\*: NA

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*mimi chen*

Signature: mchen@entercom.com, Sep 9 '15 ip: 104.172.101.177

Name: Mimi Chen

Title: Radio DJ and musician

Organization\*: KSWD FM

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

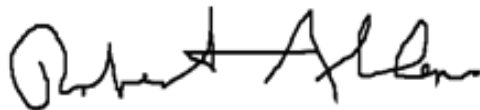
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "Robert Allen". The signature is fluid and cursive, with a prominent "R" and "A".

Signature: shalaman1@aol.com, Sep 9 '15 ip: 173.54.57.49

Name: Robert Allen

Title: President

Organization\*: Sha-La Music, Inc.

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtdcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

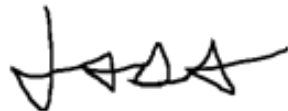
<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: gauranga.house.of.yoga@gmail.com, Sep 9 '15 ip: 99.21.144.252

Name: Jada

Title: Club Advisor

Organization\*: Yoga Kirtan Club

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: mayday321@gmail.com, Sep 9 '15 ip: 74.90.156.21

Name: A. Nero

Title: Producer

Organization\*: APP

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: joe.caruso.cg@gmail.com, Sep 9 '15 ip: 120.148.217.94

Name: Joe Caruso

Title: Director

Organization\*: The Cullen group

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Marios Papalexis*

Signature: studio32pro@hotmail.com, Sep 9 '15 ip: 79.130.75.189

Name: Marios Papalexis

Title: Artist

Organization\*: Marios Papalexis

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: arun@sweetsoulsound.com, Sep 9 '15 ip: 207.38.225.193

Name: Arun Luthra

Title: Saxophonist, Konnakol Artist, Composer, Arranger

Organization\*: Arun Luthra

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

Signature: neil@revealsound.com, Sep 9 '15 ip: 86.26.142.131

Name: Neil Pickles

Title: Mr

Organization\*: The Neil Anthony Collective

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: jclind@gmail.com, Sep 9 '15 ip: 108.71.139.133

Name: John Lind

Title: Guitar, vocals

Organization\*: Last Rites

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

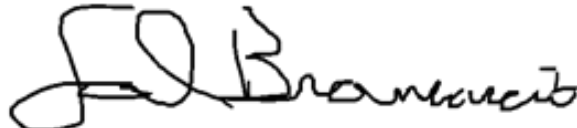
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: drumsalco@live.com, Sep 9 '15 ip: 99.171.99.129

Name: Sal Brancaccio

Title: Owner

Organization\*: SoCal Music & More/Group is Blue Tuesday.

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

A handwritten signature in black ink that reads "kilo kapanel". The script is cursive and fluid.

Signature: kilokapanel@gmail.com, Sep 9 '15 ip: 172.56.6.131

Name: kilo kapanel

Title: vp/artist

Organization\*: mobfioso music

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: axeman156@yahoo.com, Sep 9 '15 ip: 166.176.184.231

Name: Chris Sleight

Title: Recording engineer

Organization\*: Megasound studio

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbNation.com>

<sup>31</sup> <http://music.us/mcmo>



content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

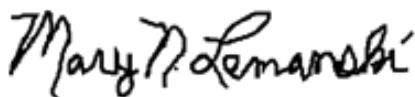
<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: painted421@aol.com, Sep 9 '15 ip: 99.102.108.139

Name: Mary N. Lemanski

Title: Musician

Organization\*: Mary Lemanski

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>



The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public



- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,

*Thomas Howard Lichtenstein*

lichtentunes@gmail.com, Sep 9 '15 ip: 222.159.86.145

Signature:

Name: Thomas Howard Lichtenstein

Title: Mr. musician, artist

Organization\*: THL, TheCaptainT

\* If you are an artist/band enter your artist/band name

Dr. Steve Crocker, Chairman of the ICANN Board;  
Fadi Chehadé, ICANN President & CEO;  
Akram Attallah, ICANN President of Generic Domains Division;  
Christine Willett, ICANN Vice-President of gTLD Operations;  
Cherine Chalaby, ICANN Chair of the New gTLD Committee;  
Thomas Schneider, ICANN Chair of Government Advisory Committee;  
Cyrus Namazi, ICANN Vice-President of DNS Engagement;  
John Jeffrey, ICANN General Counsel; and  
Community Priority Evaluation Panel, Economist Intelligence Unit

## **Re: Support for .MUSIC Community-based Application<sup>1</sup> with Enhanced Safeguards**

Dear ICANN and Economist Intelligence Unit (“EIU”):

Please accept this Letter of Support for DotMusic’s .MUSIC community-based application. DotMusic has incorporated public interest commitments<sup>2</sup> and enhanced safeguards that will ensure that the operation of the .MUSIC top-level domain is responsible, trusted and safe under a community-based, multi-stakeholder governance model. Such music-tailored safeguards are prudent and well-intentioned because the global music Community operates in a sensitive, regulated sector that would benefit from such music-tailored protections. ICANN, the Government Advisory Committee (GAC),<sup>3</sup> over 40 experts,<sup>4</sup> and the general public<sup>5</sup> recognize and are aware of the existence an organized and delineated music “(industry) community”<sup>6</sup> that functions in a regulated music sector. Furthermore, DotMusic’s community application serves a higher purpose and has more music-tailored policies than all competitors combined.<sup>7</sup>

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<sup>1</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>, DotMusic Limited Application ID 1-1115-14110

<sup>2</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>

<sup>3</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>4</sup> <http://music.us/expert/letters>

<sup>5</sup> Over 95% of public comments do not doubt the existence of the defined music (industry) community and Support DotMusic’s community application (See ICANN New gTLD Public Comments at <https://gtldcomment.icann.org/applicationcomment/viewcomments>). DotMusic has also provided an independent Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people) and matches the community defined by DotMusic. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.” (See Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>, August 7-11, 2015, Pg. 1,2,3)

<sup>6</sup> Based on the EIU’s rationale in the CPE Determinations for .RADIO, .HOTEL and .SPA, DotMusic’s community-based application would overwhelmingly exceed the minimum “(industry) community” threshold for the applied for string because its application is supported by organizations with members that represent over 95% of global music consumed. In fact, DotMusic’s application has amassed the largest coalition of music-related organizations to support a music cause. Just like in the CPE Determinations for .RADIO, .HOTEL and .SPA (See <http://newgtlds.icann.org/en/applicants/cpe#invitations>), DotMusic is supported by a global “(industry) community,” with members that have the requisite awareness and recognition of the community defined.

<sup>7</sup> See .MUSIC applicant comparison chart, <http://music.us/comparison>

The DotMusic community-based application has been the subject of what is by far the longest public comment period in ICANN history. The DotMusic application has been open for public comment since 2012, i.e. for nearly 3 and half years. Reasonably, one would expect that any truly concerned organization or entity would have voiced their opinions years ago when the application was first published, especially taking into context DotMusic’s extensive public outreach (most likely the most extensive of any gTLD applicant) as well as DotMusic’s strong and vocal presence at ICANN meetings and other related-events.<sup>8</sup> This would have represented a “good faith” concern because community applicants could have undertaken to deliberate with the concerned party to establish whether to make changes in their applications to accommodate that party if the broader community agreed through an application change request process.

As such, letters of opposition received at the eleventh hour should be considered in this context. By any measure, more than enough time has passed for legitimate concerns to be raised by any party. It is also disingenuous that in the eleventh hour before the DotMusic community application’s CPE that some negligible individuals and groups (including entities without an explicit association with music) have opposed DotMusic’s multi-stakeholder “community” model and shunned the existence of the music community.<sup>9</sup>

To deny that the Community exists or participates in a shared system of creation, distribution and promotion of music with common norms and communal behavior (i.e. commonly-known and established norms in regards to how music entities perform, record, distribute, share and consume music) is akin to denying the existence of music altogether. Furthermore, the Community shares a legal framework governed by common copyright law under the Berne Convention, which was established and agreed upon by over 167 international governments,<sup>10</sup> which includes shared rules and communal regulations.<sup>11</sup>

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<sup>8</sup> <http://music.us/events>

<sup>9</sup> E.g. .MUSIC competitor Rightside (a Donuts partner under Covered TLD, LLC) stated that it is “preposterous that there exists a “music community”” (See <https://icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf>). In marketing material promoting .BAND (which was delegated to Covered TLD), Rightside acknowledged the existence of “music communities” (<http://branding.rightside.co/api/download/28qb-dj9ehrud>, Pg.2), which is consistent with DotMusic’s “Music Community” definition of a “logical alliance of communities related to music.” Furthermore, another Marketing Kit referred to the “music sector,” sorting it according to delineated music community types, such as record companies, publishing, and “other music-related sectors” (Pg.6). The Kit also refers to many music community organizations that have supported DotMusic e.g. BMI, ASCAP, ReverbNation and others (Pg. 1, 2, 3, 9, and 10). The Kit also quotes the IFPI, an organization *mainly* dedicated to the music community that supported DotMusic, acknowledging the existence of an organized “music industry”...“a massive engine worth more than US\$130 billion globally” (Pg.3). (See .BAND Marketing Kit, <http://branding.rightside.co/api/download/28qj-3k4nlku8>)

<sup>10</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=15](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15)

<sup>11</sup> The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first accepted in Berne, Switzerland, in 1886 – See [http://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](http://www.wipo.int/treaties/en/text.jsp?file_id=283698)

DotMusic has is the support of a majority of the Community as defined. DotMusic’s Community definition represents the cohesive music (industry) Community that matches the applied-for string:<sup>12</sup> a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders.”<sup>13</sup> (I.e. all music-related entities with legitimate interests to music and an awareness of the Community can access .MUSIC domains). Per its Mission, DotMusic follows “a multi-stakeholder approach of fair representation of all types of global music constituents” and has already set up an expanding Board to represent such interests.<sup>14</sup>

In addition, further evidence that the cohesive “(industry) community” defined by DotMusic is clearly globally-recognized, delineated and organized is the existence of numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are (and which songs they are associated with), so that Community members are appropriately compensated or attributed, regardless whether the constituent is a commercial, non-commercial or amateur. Such global music classification systems include the ISMN,<sup>15</sup> ISRC,<sup>16</sup> ISWC<sup>17</sup> and the ISNI.<sup>18</sup>

DotMusic is the only .MUSIC applicant that has followed unified principles, ideals and mission that the Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians’ rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination.<sup>19</sup> DotMusic developed its Mission and

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<sup>12</sup> A cohesive music community definition (i.e. an “(industry) community”) is a requirement by ICANN and the EIU to pass Community Priority Evaluation (See .RADIO, .SPA and .HOTEL CPE determinations by EIU, <https://newgtlds.icann.org/en/applicants/cpe>)

<sup>13</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>14</sup> <http://music.us/board>

<sup>15</sup> The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See <http://www.ismn-international.org/whatis.html> and [http://www.iso.org/iso/home/store/catalogue\\_ics/catalogue\\_detail\\_ics.htm?csnumber=43173](http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173)

<sup>16</sup> The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See <http://isrc.ifpi.org>, <https://www.usisrc.org/about/index.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=23401](http://www.iso.org/iso/catalogue_detail?csnumber=23401)

<sup>17</sup> The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See <http://www.iswc.org/en/faq.html> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=28780](http://www.iso.org/iso/catalogue_detail?csnumber=28780)

<sup>18</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>19</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c



Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach launched in 2008.<sup>20</sup>

The GNSO Final Report,<sup>21</sup> which provided the basic guidelines for the new gTLD application process and the AGB states that: “where an applicant lays any claim that the TLD is intended to support a particular community...that claim will be taken on trust (CV 7-10).” DotMusic’s demonstrable and unprecedented support, community definition and music-tailored policies (that were developed over years of open and public outreach and consultation with the community), clearly validates such trust.

DotMusic’s community definition to include all Community members without discrimination affirms that the community was not construed, consistent with the community guidelines set forth by the GNSO Final report which stated that “community should be interpreted broadly and will include, for example, an economic sector, a cultural community, or a linguistic community.” Furthermore, the GNSO Final Report states that “Opposition must be objection based. Determination will be made by a dispute resolution panel constituted for the purpose. The task of the panel is the determination of substantial opposition. The objector must provide verifiable evidence that it is an established institution of the community...The panel will assess the balance between the level of objection submitted by one or more established institutions and the level of support provided in the application from one or more established institutions. The panel will assess significance proportionate to the explicit or implicit targeting.” DotMusic’s application has not had any Community Objection filed against it with the ICC. As such, any non-formal opposition filed without a dispute resolution panel should be considered irrelevant and spurious. In proportion, the last-minute opposition filed for the purpose of obstruction is irrelevant, especially when compared with the unprecedented level of support of DotMusic’s application by an overwhelming Community majority.

Respecting and protecting music rights serves both the global music community and the public interest. This Letter supports the position of the International Federation of the Phonographic Industry,<sup>22</sup> which endorses DotMusic because it has “publicly committed to, and will be bound to, implement meaningful and robust safeguards to protect against online infringement.”<sup>23</sup> This letter also supports the positions expressed in the letter<sup>24</sup> sent to ICANN (on March 5<sup>th</sup>, 2015) by Victoria Sheckler from the RIAA and on behalf of a global music community coalition representing “over 80% of the world’s music,” and the letter<sup>25</sup> sent to ICANN (on March 7<sup>th</sup>, 2015) by Rich Bengloff from the A2IM and on behalf of a majority of a global music community coalition representing a majority of the independent music community, to support the [DotMusic] “community” application for .MUSIC and that “we expect...the community application process...to have meaning and for the community

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<sup>20</sup> <http://music.us/events>

<sup>21</sup> GNSO Final Report, Introduction of New Generic Top-Level Domains, 8 August 2007  
<http://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>22</sup> The IFPI represents the recording industry worldwide and is an entity *mainly* dedicated to the global Music Community, <http://www.ifpi.org/about.php>

<sup>23</sup> <https://www.icann.org/en/system/files/correspondence/moore-to-crocker-18may15-en.pdf>

<sup>24</sup> <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

<sup>25</sup> <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind " and for ICANN "to expeditiously implement appropriate changes to address [concerns]." This letter also supports the positions in the letter<sup>26</sup> sent to ICANN (on April 14<sup>th</sup>, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, which expressed their "support [for] the [DotMusic] .MUSIC community application because respecting and protecting music rights serves the global music community and the public interest." This letter also supports the position of the International Federation of Arts Councils and Culture Agencies<sup>27</sup> and DotMusic's CPE Analysis.<sup>28</sup>

This letter also would like to note that the New gTLD Program has not been cost-effective to the music community. The Trademark Clearinghouse and many other priority-based processes (e.g. Domains Protected Marks Lists and the Dutch-auction Early Access Programs) have come at a great expense and have favored deep-pocketed registrants. Under the same token, most registries reserved premium domains to be sold at a significantly high cost.<sup>29</sup> An overwhelming majority of music constituents have not participated in such allocation mechanisms because of such high costs.

As such, we support the DotMusic application's cost-effective and music-tailored domain name allocation policies and phases. These include a music-tailored Globally Protected Marks List (GPML) aimed to protect the names of famous music brands or artists from cybersquatting, and a priority phase for members of recognized Music Community Member Organizations (MCMOs) aimed to keep costs low, prevent cybersquatting (of Community members' names) and spur adoption. Such a priority phase does not give any special privileges over community members that do not belong to MCMO's because DotMusic's naming condition policy mandates that registrants only register their names (i.e. they cannot register another Community member's name regardless of whether they belong to an MCMO or not). Furthermore, all legitimate music-related Community members have access to .MUSIC domains during the subsequent Landrush and General Availability phases. If any Community member wants to participate in the MCMO stage they could also join many MCMOs that offer free memberships at zero cost (e.g. ReverbNation<sup>30</sup>), which ensures a fair and competitive allocation process. Eligible music communities could also apply to become MCMOs.<sup>31</sup> As such, social benefits overwhelmingly exceed social costs.

We also strongly support DotMusic's policy that restricts .MUSIC registration to legitimate community members (i.e. peripheral entities without an awareness or recognition of the music community are not eligible). Such a prudent policy ensures that .MUSIC domains are highly relevant to legal, music-related

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<sup>26</sup> <https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf>

<sup>27</sup> <https://www.icann.org/en/system/files/correspondence/gardner-to-crocker-et-al-26aug15-en.pdf>

<sup>28</sup> <https://www.icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-2-redacted-12aug15-en.pdf>

<sup>29</sup> Alternatively, we support DotMusic's premium domain plan to organize and sort .MUSIC registrants according to community member delineation (e.g. label.music or rock.music). Instead of allocating these premium domains to the highest bidders, they will be shared by .MUSIC registrants in a meaningful, organized manner.

<sup>30</sup> <https://www.reverbnation.com>

<sup>31</sup> <http://music.us/mcmo>

content and use. Such relevancy and quality control helps increase search engine ranking and provide quality control for Internet user. It also deters bad actors from registering .MUSIC domains. Community-based, music-tailored restrictions ensure that social benefits exceed social costs (i.e. serve the global public interest) and help drive innovation by creating a trusted ecosystem of legal music consumption where monies flow to the music community and not to illegitimate parties or unlicensed websites.

Please accept this Letter of Support for DotMusic Limited's .MUSIC community-based application because DotMusic:

1. is the only .MUSIC applicant that follows unified principles, ideals and mission that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination;<sup>32</sup>
2. developed its Mission and Registration Policies using a consensus-driven, bottom-up methodology via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008.<sup>33</sup> This outreach gave the Community all-encompassing, open opportunities to engage with DotMusic to address any concerns (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events and still continues to engage Community members;
3. is supported by an "(industry) community" with members that have the requisite awareness and recognition of the community defined. The cohesive global music community defined constitutes a clear "(industry) community" supported by relevant organizations with members representing over 95% of music consumed globally (i.e. a majority), including many entities *mainly* dedicated to the Community, such as the IFPI, FIM, ICMP, IFACCA, IAMIC, ISME, A2IM, WIN, NAMM and others.<sup>34</sup> As such, DotMusic's community application should overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string given the EIU's consistent rationale with respect to the prevailing "(industry) community" CPE determinations for .HOTEL, .RADIO and .SPA.

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<sup>32</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 18a and 20c

<sup>33</sup> <http://music.us/events>

<sup>34</sup> <http://music.us/supporters> and <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392>

4. is the only .MUSIC applicant without a formal Community Objection or any relevant, substantiated opposition filed against it.<sup>35</sup> It is in the public interest that the Panel protects the legitimate interests of the global Music Community by invalidating last-minute spurious letters of opposition and clearly understands the objectives of such letters intended to unfairly disqualify this worthy, meaningful and well-intentioned community-based application supported by the majority of the Community;<sup>36</sup>
5. commits to align its music-tailored Registration Policies with its articulated community-based purpose to serve the legitimate interests of the Community. DotMusic has more music-tailored policies than all other .MUSIC applicants combined;<sup>37</sup>
6. commits to “use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment...aligned with [its] community-based Purpose” and uphold its established Community definition of a “strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music” that “encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders;”<sup>38</sup>
7. Music is recognized by recent ICANN Resolutions and GAC Advice as a regulated, sensitive sector,<sup>39</sup> comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music. As such, the cohesive “(industry) community” defined is clearly globally-recognized, delineated and organized because it operates in a regulated sector which uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The “MUSIC” string is commonly used in classification systems such as ISMN, ISRC, ISWC and ISNI<sup>40</sup>). As such, the string is aligned with DotMusic’s

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<sup>35</sup> DotMusic has followed a consensus-driven, bottom-up methodology to build its Policies and Mission via feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008. Also, the public comment window has been open since 13 June 2012 for over 3 years. As such, last-minute opposition letters should be viewed as filed for the purpose of obstruction because any relevant organization had years and countless outreach opportunities to publicly voice legitimate concerns to DotMusic. Also any opposition from a negligible entity that is not relevant to the string is considered irrelevant.

<sup>36</sup> See <http://newgtlds.icann.org/en/applicants/cpe/faqs-13aug14-en.pdf>, Pg. 6

<sup>37</sup> <http://music.us/comparison.pdf>

<sup>38</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>39</sup> <https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf>, Pg.3

<sup>40</sup> The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public

- Community definition (“a strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music”), which is also consistent with Expert opinion.<sup>41</sup> Furthermore, its Nexus matches the string because it represents the Community, allowing all constituents to register a .MUSIC domain without conflict of interests, over-reaching or discrimination. DotMusic’s application clarifies that it does not unfairly prevent access to domain names to those with legitimate musical interests that have the requisite awareness of the community addressed;
8. has independent testimonies and disclosures from 43 experts, including 33 Ph.Ds, that provide evidence and “conclusions that are compelling and defensible”<sup>42</sup> that prove beyond reasonable doubt, that DotMusic’s community-based application for .MUSIC exceeds the CPE criteria for *Community Establishment, Nexus and Support*, agreeing that the defined community is accurate and matches the applied-for string;<sup>43</sup>
  9. has provided an independent poll, conducted by independent polling organization Nielsen/Harris Poll, to address whether the string and DotMusic’s defined community fulfill the “Nexus” criterion that requires that the string is commonly-known (i.e. known by most people<sup>44</sup>) and associated with the identification of the community defined. Most people, 1562 out of 2084 (i.e. 75% of the respondents) responded “Yes.”<sup>45</sup> In conclusion, a majority of the general public agreed that DotMusic’s associated definition of the community addressed (i.e. “a logical alliance of communities of individuals, organizations and business that relate to music”<sup>46</sup>) matches with the string;
  10. is governed by the multi-stakeholder global Music Community with a diverse Policy Advisory Board encompassing commercial, non-commercial and amateur music-related constituent types;<sup>47</sup>
  11. has enhanced safeguards to increase trust, protect copyright and prevent cybersquatting. These include: restricting eligibility to Community members with the requisite awareness

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records of over 8 million identities and 490,000 organizations. See <http://www.isni.org/> and [http://www.iso.org/iso/catalogue\\_detail?csnumber=44292](http://www.iso.org/iso/catalogue_detail?csnumber=44292)

<sup>41</sup> <http://music.us/expert/letters>

<sup>42</sup> CPE Guidelines, Pg.22, and CPE Panel Process Document, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>, Pg.3

<sup>43</sup> <http://music.us/expert/letters>

<sup>44</sup> <http://www.wordreference.com/es/translation.asp?tranword=commonly%20known>

<sup>45</sup> Nielsen / Harris Poll, Quick Query Q3505, <http://music.us/nielsen-harris-poll.pdf>  
Fielding Period: August 7-11, 2015, Pg. 1,2,3

<sup>46</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392>, 20a

<sup>47</sup> <http://music.us/board/>

- of the Community defined without discrimination; only allowing legal music content and usage; no parking pages; stopping domain hopping; anti-piracy takedown policies; authorization provisions; permanent blocks; privacy/proxy provisions; true name/address mandates; trusted sender complaints; registrant validation via a mandatory two-step phone and email authentication process; a priority-based launch phase<sup>48</sup> for Community members belonging to Music Community Member Organizations (MCMOs); naming conditions only allowing registrants to register their name, acronym or Doing Business As; and, a Globally Protected Marks List (GPML) to protect famous music brands;<sup>49</sup>
12. commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement and random compliance checks, with appropriate appeals mechanisms to fix compliance issues under its music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including independent dispute resolution via the National Arbitration Forum (NAF);<sup>50</sup>
  13. has partnered with Afilias,<sup>51</sup> the backend registry provider for .ORG, to power .MUSIC domains. Afilias has the strongest background, track record and experience of any other .MUSIC backend registry provider. Afilias is the world's second largest Internet domain name registry with over than 20 million domain names under management, which is more than all other .MUSIC applicants combined.
  14. will provide innovative services, including (i) providing increased Community member exposure through Premium Channels sorted based on delineated constituent type, and (ii) building a comprehensive global song registry; and
  15. is accountable to the global Music Community through its Public Interest Commitments<sup>52</sup> that clarify its commitment to serve the global Music Community and public interest, while also addressing any concerns the Community may have.

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<sup>48</sup> Registrants must comply with naming conditions only allowing them to legitimately register their own name while preventing illegitimate, bad faith registrations and user confusion. This phase provides better protection against abuse or impersonation, offers Community members a cost-effective alternative to the Sunrise phase (or an Early Access Program used by other registries) and helps spur adoption.

<sup>49</sup> DotMusic's GPML is a significantly more cost-effective alternative for famous music brands than submitting to the Trade Mark Clearing House. The GPML is also more cost-effective than other initiatives by competitors such as the Donuts' DPML, which charges nearly \$3,000 every 5 years (<http://www.worldipreview.com/article/a-sweet-solution-donuts-and-trademarks>). DotMusic's GPML is music-tailored and does not have such costs.

<sup>50</sup> See DotMusic MPCIDRP at <http://www.adrforum.com/RegistrySpec> and [http://www.adrforum.com/users/odr/resources/Music\\_Policy\\_and\\_Copyright\\_Infringement\\_Dispute\\_Resolution\\_Process\\_final%20\(2\).docx](http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx)

<sup>51</sup> <http://www.afilias.info/about-us>

<sup>52</sup> <https://gtdresult.icann.org/application-result/applicationstatus/applicationdetails/downloadpicposting/1392?t:ac=1392>



This letter of support urges ICANN and the EIU to pass DotMusic's application in CPE because it exceeds the criteria required to pass. DotMusic's application responsibly serves a higher purpose to fulfill the Community's needs and legitimate interests. Any decision other than prevailing CPE would not serve the interests of the Community. DotMusic's community application has been supported by the largest music coalition ever assembled to support a music cause and that alone speaks volumes. To deny such a milestone would be a catastrophic failure for the New gTLD Program.

The New gTLD Program's objective was to prevent false positives and give preferential treatment to authentic community applications (such as DotMusic's) with demonstrable support and community-tailored policies. Thus far, there has not been any community, music-themed TLDs launched in the new gTLD Program. Furthermore, many music-themed gTLDs have been launched but none have been widely adopted by the Community. This is largely because they lack appropriate music-tailored policies, have no meaningful differentiation and do not incorporate a multi-stakeholder community governance structure to instill Community trust and accountability. ICANN and the EIU should be aware that the Internet will likely not have a music-themed, community-based gTLD presence if DotMusic does not prevail CPE because auctions favor .MUSIC applicants with the deepest pockets whose applications do not serve the Community's interests, such as Google, Amazon and other publicly-traded entities. This is the New gTLD Program's last opportunity to have a community-based, music-themed gTLD. A positive CPE result will serve the global public interest because it will increase diversity and innovation in the namespace, as well as ensure that freedom of expression truly flourishes under a multi-stakeholder community model run for the music Community by the music Community.

Respectfully submitted,



Signature: scottleang@hotmail.com, Sep 9 '15 ip: 86.175.19.114

Name: Scott Leang

Title: Mr

Organization\*: Freelance Musician

\* If you are an artist/band enter your artist/band name