



GOVERNO DE
PORTUGAL

MINISTÉRIO DA AGRICULTURA
E DO MAR



IVDP
Instituto dos Vinhos
do Douro e do Porto, I.P.

ICANN New gTLD Program Committee
ICANN Board Members
ICANN's Governmental Advisory
Committee
Country representatives of the ICANN's
Governmental Advisory Committee

April, 3th 2014

By e-mail

POSITION OF INSTITUTO DOS VINHOS DO DOURO E DO PORTO, REGARDING THE .WINE AND .VIN NEW GTLD APPLICATIONS

Our organization officially represents the grape growers and wine producers based in the Douro demarcated origin (PDO Porto). In addition, our region is a proud signatory of the Joint Declaration to Protect Wine Place & Origin (available at www.protectplace.com).

This Declaration to Protect Wine Place & Origin is an alliance of quality wine growing regions from across the globe that seek to increase the protection of wine labels and the integrity of wine place names, which are fundamental tools for consumers to identify the special wines of great winegrowing regions. All wine regions that have signed the Declaration are committed to educating consumers about the importance of location and ensuring that wine growing place names are protected and easily identifiable is central to this effort.

1. The Porto's concerns

On 22 March 2014, the ICANN New gTLD Program Committee ("**NGPC**") directed that the applications for .WINE and .VIN should proceed through the normal evaluation process.

On 27 March 2014, the ICANN's Governmental Advisory Committee ("**GAC**") noted at least one process violation and procedural error with respect to the Board's decision, including in relation to ByLaws Article XI-A, Section 1 subsection 6 which states:

"6. Opportunity to Comment. The Governmental Advisory Committee, in addition to the Supporting Organizations and other Advisory Committees, shall have an opportunity to comment upon any external advice received prior to any decision by the Board."

The GAC therefore advised that the Board reconsidered the matter more fully before delegating the .WINE and .VIN strings.

In addition, the GAC indicated that the concerned GAC members believe the applicants and interested parties should be encouraged to continue their negotiations with a view to reach an agreement on the matter.

In this context, we are writing to you to express our concern with regard to how the new .WINE and .VIN gTLDs may negatively impact our organisation's ability to protect against fraudulent use of Wine related Geographical Indications ("**GI**")s and

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the wine regions we represent. When it comes to wine, location matters. Whether we use the AVA system or the GI system, our wine growing places are unique and these terms are understood by consumers to denote the origin and the quality of products produced in a special geographical area. In Europe, GIs are generally defined as being "*indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin*"¹. GIs therefore guarantee that a product is from a certain region, and of a certain nature and quality. In the United States, AVA's perform a similar role in identifying for consumers where their wines come from.

Allowing the applications for .WINE and .VIN to proceed through the normal evaluation process without additional safeguards would seriously undermine the protection consumers worldwide expect and is granted to GIs by the TRIPS and Lisbon Agreements as well as by the relevant EU regulations. The protection of GIs, AVAs and wine growing region names also serves the public interest because of the particular risks of fraudulent misuse of these terms which the Signatories regularly witness. Internet users could indeed be deceived into believing that they are buying a genuine product with specific qualities and characteristics, when they are in fact getting an imitation.

2. **The necessary measures to be taken**

We note that, to date, none of the .WINE and .VIN applicants has unequivocally included in its application appropriate safeguards for the protection of GIs, AVAs or wine growing place names.

We therefore respectfully call for ICANN and the GAC to either:

- (a) Grant adequate protection to all wine growing regions including GIs. It is indeed absolutely necessary for the Signatories to ensure that, if the extensions are delegated, there are additional safeguards around the .WINE and .VIN domain names with protection for GIs and all wine growing place names at the second level.

or

- (b) Withdraw the .WINE and .VIN extensions.

Alternatively, we would, *a minima*, respectfully call for ICANN and the GAC to grant more time to the applicants and interested parties in order to reach proper agreement before issuing a final decision on the delegation of the .WINE and .VIN strings.

We look forward to hearing from you.

Yours sincerely

Manuel de Novaes Cabral
Presidente

¹ Article 22 of the Agreement on Trade-Related Aspects of Intellectual Property Rights - "TRIPS"