

Brussels, 12 09. 2013
Ares (2013) 3038556

The EU has welcomed on a number of occasions the applications of the two new gTLDs .wine and .vin as a possibility to have a reliable and safe place on the internet for consumers, right holders of Geographical indications (GI) and producers of wine. We have also stressed the importance that GIs are sufficiently protected under the new gTLDs. Consequently, the European Commission and the major wine producing EU Member States have invested much in GAC to establish safeguards which would allow ICANN to delegate the two new gTLDs in a safe manner, both for GI right holders and consumers.

At the Beijing meeting, the EU pointed out that the more general safeguards agreed in Annex I of the Communiqué were not sufficient and suggested a limited number of specific safeguards for the two strings. The European Commission was obviously open to negotiate these safeguards with other GAC members, although to a large extent they were to be considered as minimal to achieve the objective they aim to pursue. However, the proposed safeguards were rejected by a few GAC members and it was therefore concluded, in consensus, that further considerations were needed and that, in the meantime, the Board should be advised not to proceed beyond initial evaluation.

After Beijing, much in the spirit of ICANN's multi-stakeholder approach, the European Commission encouraged organisations representing right holders of GIs to contact the applicants in order to come to an agreeable solution. The European Federation of Origin Wines (EFOW), contacted the applicants with a concrete proposal, to which unfortunately, they only at a later stage got elusive answers. At the Durban meeting, despite the European Commission's assurance that we were taking appropriate measures to find a solution, the EU and other GAC members were forced to accept a timespan of thirty days in "a view to conclude on the matter".

Mr Fadi Chehadé,
President and CEO

Mr Stephen Crocker
Chair of the board

ICANN
Los Angeles, CA, USA
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

cassia.oliviera @icann.org

During this thirty day period, the European Commission and the EU Member States have again made substantial efforts to explain the legal implications, the political sensitivities and the economic interest at stake. Similar concerns have also been expressed to you directly, not only from International and European organisations but also from GI right holders in the USA. We also suggested a way forward, including safeguards which puts GIs on equal footing with trademarks and copyrights in the advice, and suggests a number of precautionary measures allowing GI right holders a certain insight in the registration policies.

Although some of the GAC members seem to believe that the applications for .wine and .vin should proceed, I would like to recall that there has not been any consensus decision overruling the advice given in Beijing. We are therefore of the firm opinion that the advice provided at the GAC April meeting stands as long as there is no new consensus on the matter.

Furthermore, our position on substance also remains firm; under no circumstance can we agree having .wine and .vin on the internet, without sufficient safeguards which efficiently protect the rights and interest of both GI right holders and consumers of wine and wine products. The more general safeguards expressed in Annex 1 of the Beijing Communiqué are not specific enough to allow companies unrelated to the wine sector, and therefore not acquainted with the specificities of the global wine market and the importance of GIs, to run the two strings in a safe manner. I think the Public Interest Commitments accompanying the applications illustrate this very well.

If serious negotiations can start between the two parties, I am confident that the discussions between the GI right holder organisations and the applicants will result in an agreement which, in line with applicable law in the EU, can actually establish a safe space for the GI right holders and consumers. Until such agreement has been concluded, I expect that ICANN does not go beyond the initial evaluation of the two strings .vin and .wine.

In this context, I would also welcome a substantial discussion between our services on how ICANN will ensure that GIs will be treated equally to other intellectual property rights, not least within the Trade mark clearing house.

I am looking forward to your full cooperation on this highly sensitive issue, crucial for our trust in the well-functioning of ICANN and the multi-stakeholder approach to internet governance.

Yours sincerely,

Heelie

P.L. Look forward to our meeting