

**VIA EMAIL and CSC**

Christine A. Willett  
Vice President, GDD Operations  
ICANN  
12025 Waterfront Drive, Suite 300  
CA 90094-2536, **Los Angeles**

UNITED STATES OF AMERICA

**Re: .RADIO “On-Hold”** Case 00157532 (*Afilias Ltd, BRS Media, Inc. and Tin Dale, LLC CEP*)

Geneva, 16 July 2015

Dear Mrs Willett,

Following up on your latest reply (1 May 2015), we noted that since then, our application is still being on hold due to a CEP procedure. When we sent ICANN the letter (on 20 April 2015) to understand why the application was still blocked, despite having received a positive outcome of the reconsideration request, it was already 77 days since the start of the CEP procedure. In the ICANN Bylaws, this procedure is supposed to last generally a **few days**, unless extended by the parties concerned (ICANN and complainants). However, much to our dismay, today we are facing a delay of **more than 5 months**. You will understand, we hope, that this situation appears to us wholly unjustified and unacceptable.

We need not explain the importance of this matter to the European Broadcasting Union as the Community TLD applicant and to all the endorsing stakeholders waiting for the launch of .Radio. Based on the rules of the CEP procedure, we have severe difficulties to understand why this process, which affects our planning for the gTLD substantially, is still ongoing and has not been finalized as per ICANN’s own rules.

As the CEP started on 2 February 2015 (i.e. more than 150 days ago), the EBU feels that it is entitled to request ICANN to complete the CEP immediately. We fail to see how it is possible, let alone justifiable, that two decisions by ICANN in our favour (CPE and the reconsideration request) can be used by the complainants to stall and obstruct the application process, deriving the radio community from the benefits of the achieved TLD, without reimbursement of any cost that the EBU endures by the delay. The EBU has no possibility to claim compensation for any of the damages caused by two years (and continuing) delay on the promised delivery of this gTLD.

Moreover, we have great difficulties to see on what basis ICANN can continue to put the .RADIO TLD on hold, given that the scope of the CEP (and eventually following IRP) is mainly to scrutinize any improper action of the ICANN Board. This process (in which EBU is not even officially involved) is taking the long expected release of .RADIO TLD in hostage for no valid reason. During the entire past 5 months, the EBU has not been contacted by ICANN regarding any request for further clarification, and the EBU has not received any claim whatsoever for a reaction to any particular element of its application. We feel that this situation provides strong evidence of an apparent abusive application of the procedural mechanisms that were originally intended for cases in which the ICANN Board may be acting against the public interest. Such abuse, and especially in a case involving a Community TLD in the public interest, puts the whole purpose of the ICANN procedures (such as the CEP or IRP) upside down. In the current review of the accountability mechanisms of ICANN, this situation would seem to raise a blatant conflict with the principle that ICANN is supposed to act as a guarantor of public interest values.

As per our letter of 6 March 2015, the EBU therefore strongly insists on its demand that ICANN confirms, by **Friday, 24 July 2015** at the latest, that it will:

- (1) conclude the Cooperative Engagement Process with Complainants with immediate effect;
- (2) dismiss any request for an Independent Review Process regarding the .RADIO gTLD; and
- (3) immediately allow EBU's application to proceed through the contracting and testing phases with the .RADIO TLD.

Yours faithfully,

Alain Artero

A handwritten signature in black ink, appearing to be 'Alain Artero', with a long horizontal stroke extending to the right.

cc (via email only):

Fade Chehadé

Steve Crocker

Chris LaHatte, Ombudsman, ICANN (ombudsman@icann.org)