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April 16, 2026

Ms. Tripti Sinha
Chair, ICANN Board of Directors
Internet Corporation for Assigned Names and Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Re: Formal Notice – Systematic Abuse of Community Priority Evaluation (CPE) and Required Safeguards for the New gTLD Program

Dear Ms. Sinha:

This formal notice serves to document and urgently addresses the **systematic abuse of the Community Priority Evaluation (CPE) process** under ICANN's New gTLD Program.
BRS Media Inc. has, since its original correspondence to ICANN dated March 5, 2014, consistently raised concerns that CPE—intended to prioritize legitimate, well-defined communities—has instead been used in practice as a **mechanism to gain unfair advantage in contested application sets**. Those concerns were further elevated through ICANN accountability processes, including Request 14-41 and subsequent proceedings, and remain unresolved.

Over successive application cycles, a clear and troubling pattern has emerged: applicants utilize CPE to secure priority status through restrictive representations, only to later abandon or dilute those restrictions after delegation. This conduct undermines the integrity of the program, disadvantages bona fide applicants, and contravenes the foundational purpose of Sponsored, Community, and Geographic TLDs.

Background and Pattern of Abuse

1. CPE as a Gaming Mechanism

Applicants obtain CPE approval by presenting narrowly tailored, community-specific registration policies designed to satisfy evaluation criteria. However, once a TLD is delegated, those same applicants frequently seek to:

- Relax or eliminate community restrictions;

- Reinterpret the scope of the defined community; or
- Transfer operational control to unrelated commercial entities.

The result is the effective conversion of a **restricted, community-based TLD into an open commercial namespace**, achieved through a process that circumvents standard contention resolution mechanisms.

2. **Forced Restrictions Leading to Predictable Failure**

ICANN has historically incentivized, and in practice compelled, applicants to adopt **stringent eligibility and use restrictions** in order to improve the likelihood of application success. These restrictions often:

- Limit market adoption;
- Reduce commercial viability;
- Constrain innovation and growth within the namespace.

Predictably, such TLDs underperform relative to their intended target segments. Applicants then return to ICANN seeking relief from the very restrictions that enabled their approval—relief that has, in multiple instances, been granted. This cycle effectively rewards the strategic overstatement of community limitations at the application stage.

3. **Absence of Meaningful Sunset or Enforcement Mechanisms**

While policy frameworks contemplate the possibility that Sponsored, Community, or Geographic TLDs may fail to achieve meaningful adoption within their defined segments, **no effective or consistently applied sunset mechanism exists in practice**.
As a result:

- Underperforming or non-adopted TLDs remain delegated indefinitely;
- Original community justifications become irrelevant;
- Namespaces are repurposed in ways inconsistent with their approved purpose.

This absence of enforcement creates a structural incentive for applicants to treat community commitments as temporary rather than binding.

4. **Reassignment to Non-Community Operators**

ICANN has, in certain cases, approved the transfer or reassignment of community-restricted TLDs to entities with **no demonstrable nexus to the original target segment**.
Such actions nullify the very basis upon which priority evaluation was granted and raise fundamental concerns regarding:

- Policy consistency;
- Contractual integrity;
- Equal treatment of applicants.

Specific Concerns Regarding CPE

CPE, as currently structured and applied, has become a **tool for strategic positioning rather than a safeguard for authentic communities**.
It enables applicants to:

- Secure preferential outcomes through restrictive representations;
- Avoid market-based contention resolution;
- Later seek removal or relaxation of those restrictions once control is obtained.

This is not an unintended side effect—it is a predictable outcome of a framework that lacks enforceable continuity between **application commitments and post-delegation operations**.

Required Actions

To restore fairness, transparency, and policy integrity, BRS Media urges ICANN to take the following actions without delay:

A. Enforce Specification 12 Without Exception

- Maintain strict adherence to community registration policies as contractually required;
- Prohibit any transfer, reassignment, or operational modification that weakens or circumvents those obligations.

B. Reject Policy Changes That Enable Circumvention

- Do not permit CPE-awarded TLDs to transition into open or unrestricted commercial models;
- Disallow any mechanism—contractual, interpretive, or operational—that enables abandonment of original community commitments.

C. Conduct Independent Review of CPE Outcomes

- Reassess prior CPE determinations to identify instances of misrepresentation, inconsistency, or abuse;
- Publish detailed evaluation methodologies, scoring logic, and decision rationales sufficient to ensure transparency and auditability.

D. Strengthen Safeguards for the 2026 Application Round

- Clearly distinguish **industry sectors** from **defined, organized communities with demonstrable governance**;
- Preclude the use of CPE as a provisional designation subject to later abandonment;
- Establish and enforce **mandatory sunset provisions** for any Sponsored, Community, or Geographic TLD that fails to achieve meaningful adoption.

Conclusion

Absent decisive intervention, the New gTLD Program will continue to incentivize and reward applicants who **strategically manipulate community-based provisions**, to the detriment of legitimate applicants and the broader public interest.

BRS Media respectfully requests that ICANN acknowledge receipt of this notice and provide a formal response outlining the specific steps the Board intends to take to address these systemic issues in advance of the 2026 application round.

The integrity of the program depends not only on how applications are evaluated, but on whether ICANN enforces the commitments upon which those evaluations are based.
We look forward to your prompt and substantive response.

Respectfully submitted,

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- **Request 14-41: Afilias Limited, BRS Media, Inc., and Tin Dale, LLC**
  https://www.icann.org/resources/pages/14-41-2014-09-29-en
- **Afilias Limited, BRS Media, Inc. & Tin Dale, LLC v. ICANN (.RADIO)**
  https://www.icann.org/resources/pages/afilias-brs-tin-llc-v-icann-2015-10-12-en
- **Letter from George T. Bundy to Christine Willett, March 5, 2014**
  https://www.icann.org/en/system/files/correspondence/bundy-to-willett-05mar14-en.pdf