



**Litigation and Intellectual Property**

**Submission to ICANN on New gTLD Applicant Guidebook Discussion Draft of April 2011 ("AG")**

12 May 2011

The BBC and BBC Worldwide have taken the opportunity to comment on previous iterations of the Draft Applicant Guidebook and the rights protection mechanisms. On each occasion we have raised serious concerns about the release of new gTLDs, and those concerns remain. Rather than repeating them again here, we refer you to our previous comments.

Regarding the proposed changes which have been made to the Trademark Clearinghouse ("TC") and the Uniform Rapid Suspension ("URS"), we have the following comments.

**TC**

We are pleased to see that new gTLD registries will now be required to adopt both a Sunrise and a Trademark Claims service. In order to be effective, however, the Trademark claims service needs to continue beyond launch.

Protection needs to be wider than identical matches, to include in particular plurals, "mark plus descriptive term" and "mark plus device". Cybersquatting is not restricted to identical marks and this needs to be recognized in order to be effective.

**URS**

Although some movement has been made the URS still seems to miss the intentions stated by the IRT in that it remains burdensome, costly and insufficiently rapid. There needs to be an effective "loser pays" mechanism. Imposing a Response fee only where there are 26 or more disputed domain names is arbitrary and too high a number to have any real effect.

We remain deeply concerned at the threat to brand integrity and attendant financial implications for brand owners, and the significant risk of consumer detriment. We continue to urge ICANN not to proceed with a full scale launch until these issues have been properly addressed.

Susan Payne, Trade Mark Lawyer, on behalf of the British Broadcasting Corporation

Tom Carl, Brand Protection Lawyer, on behalf of BBC Worldwide Limited