

## GAC Early Warning – Health-FR-3442

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<b>Application ID:</b>	<b>1-868-3442</b>
<b>Entity/Applicant Name:</b>	<b>Afilias Limited</b>
<b>String:</b>	<b>HEALTH</b>
<b>Early Warning Issue Date:</b>	20 November 2012

### **Early Warning Description – This will be posted publicly:**

#### **GAC Member(s) to indicate a description of the Early Warning being filed**

The **Government of France** hereby expresses its deep concern about the potential allocation of the .HEALTH TLD to Afilias Ltd by ICANN, on the basis of **concern for consumer protection and the public interest**. Afilias Ltd, a Registry service provider based in the USA, applied to ICANN in May 2012 for the creation of a new Internet Top Level Domain (TLD), aiming to obtain the exclusive rights to administer and operate the .HEALTH TLD.

France's designation of .HEALTH (and its language variants) as a sensitive string is based on the importance of health as a regulated sector where, in the physical world, safeguards at the national and EU level protect consumers and the public interest. Such safeguards include for example, licensing, monitoring and enforcement mechanisms to ensure compliance with laws, regulations and policies across a broad range of activities, practices, products and services related to the health marketplace and health services delivery in all settings.

Consumer protection in health is particularly important online, where national rules cannot be effectively enforced, creating new risks for consumers, industry and governments. A .HEALTH TLD with insufficient measures to address these risks will undermine consumer trust and confidence and harm legitimate enterprise, competition and the growth of the health industry. These outcomes are contrary to the objectives of the Government of France as well as to ICANN's new gTLD process.

### **Reason/Rationale for the Warning – This will be posted publicly:**

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### **GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.**

As a generic TLD linked to a regulated sector, .HEALTH and its language variants demand greater scrutiny, robust protection measures and adequate assurance that the domain will be operated in the public interest. The Government of France is issuing this Early Warning towards that objective.

The Government of France has long recognized that health online carries specific risks, affecting consumers, the marketplace and governments. It has led the way by engaging with the Health On the Net (HON) Foundation to apply agreed quality criteria for protection of consumers and maintaining trust in the online health marketplace, to health websites operated under the ccTLD “.fr”. This experience underscores the government’s belief that the .HEALTH TLD and its language variants should be operated with a well-defined quality assurance scheme, designed as an integral part of the TLD’s business model.

However, Afiliac, which is currently applying for over 300 gTLDs, intends to create an open and generic TLD. As described in the application, the TLD does not sufficiently protect consumers. For example, requests for domain registrations will be handled on a first-come, first-served basis with a validation process only at the Sunrise phase. Premium names will be sold directly or auctioned. There are no specific quality assurance measures to protect the health consumer. The application itself is generic: it does not demonstrate knowledge of the specific risks of health online, nor provide sufficient evidence of policies and other measures to ensure the protection of consumers from the types of misuse, fraud and malicious activities known to target online health in particular.

Addressing these aspects alone is not enough, however. Consistent with its objective to protect the public interest, ICANN should not consider .HEALTH and its language variants as merely another generic name and should not proceed in allocating the TLD in this round. Health is a cross-border concern, and the domain instead must be seen as a TLD with a significant potential for the global community. Clearly, it is not in the public interest to entrust an entity which is not affiliated with, endorsed by, or otherwise connected to the global health community with the responsibility for operating the .HEALTH TLD or its language variants.

Earlier this year the World Health Organization, a number of NGOs and other members of the health community solicited ICANN and the GAC to postpone the attribution of the .HEALTH TLD to the next round, to allow consultation with the global health community on how to manage and operate the TLD. The Government of France aligns itself with this request and with the other Early Warnings for the .HEALTH TLD.

### **Supporting GAC Members (Optional):**

I agree to include the supporting GAC members in the publication of this Early Warning


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**Possible Remediation steps for Applicant – This will be posted publicly:**

**GAC Member(s) to identify possible remediation steps to be taken by the applicant**

- The applicant should withdraw their application based on the information provided above

**Further Notes from GAC Member(s) (Optional) – This will be posted publicly:**

## INFORMATION FOR APPLICANTS

### **About GAC Early Warning**

The GAC Early Warning is a notice only. It is not a formal objection, nor does it directly lead to a process that can result in rejection of the application. However, a GAC Early Warning should be taken seriously as it raises the likelihood that the application could be the subject of GAC Advice on New gTLDs or of a formal objection at a later stage in the process. Refer to section 1.1.2.4 of the Applicant Guidebook (<http://newgtlds.icann.org/en/applicants/agb>) for more information on GAC Early Warning.

### **Instructions if you receive the Early Warning**

**ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.**

#### **Asking questions about your GAC Early Warning**

If you have questions or need clarification about your GAC Early Warning, please contact [gacearlywarning@gac.icann.org](mailto:gacearlywarning@gac.icann.org). As highlighted above, ICANN strongly encourages you to contact [gacearlywarning@gac.icann.org](mailto:gacearlywarning@gac.icann.org) as soon as practicable regarding the issues identified in the Early Warning.

#### **Continuing with your application**

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to [gacearlywarning@gac.icann.org](mailto:gacearlywarning@gac.icann.org). If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

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### **Withdrawing your application**

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: [gacearlywarning@gac.icann.org](mailto:gacearlywarning@gac.icann.org)

### **Applicant Response:**