



13 August 2014

**By Email**

**Senator John Thune**

**Ranking Member**

**Committee On Commerce, Science, and Transportation,  
Washington, D.C. 20510 6125**

**Senator Marco Rubio**

**US Senator**

**Committee On Commerce, Science, and Transportation,  
Washington, D.C. 20510 6125**

Dear Honorable Senators,

***Subject: Note of Thank You, for your Intervention on “Enhancing ICANN  
Accountability” on behalf of the global Multi-stakeholders***

We write to acknowledge and support the letter your good offices wrote on July 31, 2014, to the Chairman of ICANN Board of Directors, Dr Steven Crocker regarding specific recommendations, pertaining to the issues on “Enhancing ICANN’s Accountability” to the internet governance and its stakeholders, including its careful transitional restructuring.<sup>1</sup>

Recalling the following key communications to Congress and developments:

- **June 4, 2012**, Our Organization DotConnectAfrica Trust (“DCA Trust”) wrote an Open Letter to Express Support in Defense of the Status Quo on Global Internet Governance Model. This was at a time when it was proposed that the global Internet Governance be subjected to governmental Control through the UN-ITU.<sup>2</sup>
- **July 1, 2013**, DCA Trust became the first Organization to write to Congressional leaders on issues of Accountability and Transparency on ICANN's New gTLD program, and requested for a swift intervention by Congress to redress our grievances. As you may be aware, we wrote a joint letter to the Hon.US Senator John ‘Jay’ Rockefeller IV, Chairman of the United States Senate Committee on Commerce, Science and Transportation and the Hon. Greg Walden, Chairman of the House Sub-

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<sup>1</sup>Input to the Enhancing ICANN Accountability Process

[http://www.commerce.senate.gov/public/index.cfm/?a=files.serve&File\\_id=80ea52e6-a50f-434a-8e23-d8ccc3a3b711](http://www.commerce.senate.gov/public/index.cfm/?a=files.serve&File_id=80ea52e6-a50f-434a-8e23-d8ccc3a3b711)

<sup>2</sup> June 4 2012 Open Letter to Express Support in Defense of the Status Quo on Global Internet Governance Model and Reaffirmation of the Multistakeholder Process

[library.constantcontact.com/download/get/file/1102516344150-278/Letter+from+DotConnectAfrica+to+US+Congress+on+Global+IG.pdf](http://library.constantcontact.com/download/get/file/1102516344150-278/Letter+from+DotConnectAfrica+to+US+Congress+on+Global+IG.pdf)

Committee on Communications and Technology United States House of Representatives, to explain the need for direct Congressional Oversight of the ICANN's new gTLD Program. We also made recommendations for the appointment of an Independent Counsel as the Congressional new gTLD Ombudsman. This counsel would investigate and report to Congress on any irregularities in the new gTLD Program of ICANN.<sup>3</sup>

- **October 24 2013**, We filed for an Independent Review Process ("IRP") with ICANN and described in the Amended Notice of the IRP submitted to ICANN on 10 January 2014, that it arises out of: (1) *ICANN's breaches of its Articles of Incorporation, Bylaws, international and local law, and other applicable rules in the administration of applications for the .AFRICA top--level domain name in its 2012 General Top--Level Domains ("gTLD") Internet Expansion Program (the "New gTLD Program")*; and (2) *ICANN's wrongful decision that DCA's application for .AFRICA should not proceed*
- **March 29, 2014**, DCA Trust reported our progress and submitted the status on our Independent Review Process ("IRP") with ICANN to the House Judiciary Subcommittee in accordance with the request of the Subcommittee's staff request. At the time they were looking for comments in light of the NTIA announcement regarding ICANN. We informed that the IRP is being managed by the International Center for Dispute Resolution (ICDR) and a proceedings provided for in Article IV, Section 3 of the ICANN Bylaw, which states that any person materially affected by a decision or action of the ICANN Board may request that decision or action be reviewed by an independent third party for consistency with the ICANN Bylaws and/or Articles of Incorporation. DCA is such a party affected by ICANN's wrongful decision.<sup>4</sup>
- **June 26 2014**, In an unprecedented development, all stakeholder groups and constituencies comprising ICANN's Generic Names Supporting Organization (GNSO) unanimously endorsed a joint statement in support of the creation of an independent accountability mechanism. This would provide a "meaningful review and adequate redress for those harmed by ICANN action or inaction in contravention of an agreed upon compact with the community". The announcement noted that there was an existing need for improved ICANN accountability and transparency independent of the IANA transition. The contemplated termination of US counterparty status in regard to the IANA contract presented the opportunity and increased the need for establishment of an independent review and redress mechanism to address ICANN actions. Representatives noted that ICANN's fairly unique combination of public policy functions and substantial self-funding capabilities created an increased need for measures that could address the substantial potential for self-dealing behavior by the organization.<sup>5</sup>

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<sup>3</sup> July 1 2013 New gTLD Program of ICANN –a follow-up on our previous letter and Recommendation for Direct Congressional Oversight and Appointment of an Independent Counsel as Congressional new gTLD Ombudsman <http://www.dotconnectafrica.org/wp-content/uploads/2013/07/DotConnectAfrica-Followup-letter-to-US-Senator-Jay-Rockefeller.pdf>

<sup>4</sup> January 10 2014: DCA Trust to ICANN Amended Notice of Independent Review Proces - See more at: <http://www.dotconnectafrica.org/icann-related-2/independent-review-process-dca-vs-icann/#sthash.YutOFYPK.dpuf>; <http://www.dotconnectafrica.org/wp-content/uploads/2014/01/DotConnectAfrica-Trust-Amended-Notice-of-Independent-Review-Process.pdf>

<sup>5</sup> GNSO Constituencies Issue Unanimous Joint Statement on ICANN Accountability <http://www.internetcommerce.org/gns-constituencies-issue-unanimous-joint-statement-on-icann-accountability/> , GNSO Statement at the ICANN Public Forum | Transcript Page 26 of 88 <http://london50.icann.org/en/schedule/thu-public-forum/transcript-public-forum-26jun14-en>

- **July 30, 2014**, the recent statement by Senior Advisor to the President on Global Strategy at ICANN, Theresa Swinehart's on 'Enhancing ICANN Accountability' saying that "The most critical element of this process is trust and alignment. To ensure success on this accountability track, we must as a community work closely together to make sure that the final process is meaningful. The transition from the U.S. Government is an opportunity to showcase the strength of a bottom-up, community-led multistakeholder model in Internet governance policy making. However, with that opportunity comes significant responsibility."<sup>6</sup>

With all these calls for accountability and transparency of ICANN mechanisms and structures, from various quarters, including ICANN's own staff, we would like to thank you for your interventions, active participation and commitment to the global multi-stakeholder community.

Even though we are, an African Non-Profit Trust organization formed with the charitable purpose, among other things, to advance education in *information technology* in Africa and provide a *continental Internet domain name* to provide access to *Internet services for the people of* African and for the public good, ICANN has allowed our voices to be muted by under a governments influence.<sup>7</sup>

It is therefore with keen interest that we noted your first comments regarding "Government involvement" in internet matters. Indeed DCA's voices have been heard by your good offices. We feel vindicated in our continuous call to ensure transparency and accountability, as well as non-governmental interference a priority in ICANN's decision making mechanisms in its capacity as a technical overseer of the global domain name function is indeed a shared view with your administration.

Finally, kindly note that this is the first Independent Review Process (IRP) ever since the introduction of the New gTLD program by ICANN. Therefore, as we have conveyed in our various in the past, our case will carry precedence as an important test of the efficacy of the IRP; in fact, how our case is processed and decided will speak loud about the overall integrity and transparency of the decision-making processes associated with the new gTLD program set up by ICANN.

Last, please allow me to update you again with the status of our current IRP with ICANN, which can be found at the following site.<sup>8</sup>

Thanking you for your continuous engagement and support.

Most respectfully yours,

**Sbekele**

Ms. Sophia Bekele, B.S., M.B.A., C.I.S.A, C.C.S, CGEIT  
Executive Director, DCA Trust  
Former Policy Advisor to gNSO, 2005-2007

For: DotConnectAfrica Trust (An Applicant for the .Africa gTLD) Application ID: 1-1165-42560

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<sup>6</sup> 30 Jul 2014 Update: Enhancing ICANN Accountability by Theresa Swinehart  
[https://www.icann.org/news/blog/update-enhancing-icann-accountability#.U9ICqV\\_YeVI.twitter](https://www.icann.org/news/blog/update-enhancing-icann-accountability#.U9ICqV_YeVI.twitter)

<sup>7</sup> DotConnectAfrica Trust <http://www.dotconnectafrica.org/>

<sup>8</sup> Independent Review Process (ICDR No. 50 117 T 1083 13) DCA Vs. ICANN  
<http://www.dotconnectafrica.org/icann-related-2/independent-review-process-dca-vs-icann/>