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**Website: www.africa-union.org**

Ref. :    CIE/L/20/266.15

Date :    **14 July 2015**

**Mr. Steve Crocker**
Chairman of the Board of ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536, USA
Phone: +1 310 301 5800
Fax: +1 310 823 8649
Email : Steve@shinkuro.com; steve.crocker@icann.org

Subject:       Independent Review Panel (IRP) recommendation on the matter between DCA
and ICANN related to Dot Africa gTLD

Dear Sir,

As an affected party, I would like to raise and discuss several issues regarding the release of
the Independent Review Panel (IRP) recommendation on the subject matter

The Recommendation raises serious questions over the effectiveness and reliability of
government protection mechanisms as outlined in the new gTLD Applicants Guidebook.

I would like to present several points for your kind consideration.

When African governments in their "Dakar communiqué" (Oct. 2011) raised concerns,
regarding the protection of geographic names, ICANN assured African governments (Your
letter date 8 March 2012) and the GAC that there were adequate protections for geographic
names, such as. AFRICA contained in the new gTLD Applicants Guidebook.

Key and pivotal components of these protection mechanisms are undoubtedly the early
warnings, objections and GAC advice as contained in the new gTLD Applicant Guide book.

African governments specifically, engaged in their own transparent and open processes at the
continental level and mandated the African Union Commission (AUC) through the Abuja
Declaration, to "set up the structure and modalities for the implementation of the dot Africa Top
Level Domain".

At the broader ICANN level African governments engaged with all reasonable means at their
disposal, as outlined in the Applicants Guidebook, to raise early warnings (which provided an
opportunity for DCA to engage in an open and transparent manner with the various
governments regarding concerns expressed), GAC objections and GAC advice to the board.

It is important to note that GAC consensus advice contained in the 2013 Beijing communiqué
was a result of a long process that originated before the new gTLD application round was open.
The Beijing consensus advice was the pinnacle of a long and lengthy process of providing
rationale to the board and ICANN community, including applicants, on future GAC related
responses to new gTLD applications. The processes were open, transparent and provided
several avenues for applicants to engage with the GAC and individual governments regarding
any concerns raised.

Most of the information of the process is contained here:
https://gacweb.icann.org/display/GACADV/New+gTLDs

Key aspects include:

1. **GAC principles on new gTLDs  March 28 2007**
   https://gacweb.icann.org/display/GACADV/New+gTLDs
2. **GAC comments on Geographic names** letter to the ICANN board 25<sup>th</sup> April 2009
   https://www.icann.org/en/system/files/files/karklins-to-twomey-24apr09-en.pdf
3. **GAC score card on new gTLDs 2011:**
   https://gacweb.icann.org/display/GACADV/New+gTLDs
4. **GAC Early Warnings:** https://gacweb.icann.org/display/gacweb/GAC+Early+Warnings

According to section 1.1.2.7 (Module 1 of the Applicant's Guidebook) "The procedure for GAC Advice on new gTLDs is described in Module 3 of the Applicant's Guidebook". To be considered by the Board during the evaluation process, the GAC Advice on New gTLDs must be submitted by the close of the objection-filing period. If the Board receives GAC Advice on new gTLDs stating that it is the consensus of the GAC that a particular application should not precede, this will create a strong presumption for the ICANN Board that the application should not be approved.

Therefore, GAC Advice had to be submitted before the end of the objection filing period and that it is dealt with in detail under Module 3 of the Applicants Guidebook, relating to objection procedures. This indicates that GAC Advice must be regarded as some form of objection process available to governments.

The GAC indeed issued consensus GAC Advice according to the applicant's guidebook.

Following the submission of Public Comments, the issuance of Early Warnings and the delivery of consensus GAC Advice, African governments would reasonably have assumed that they had completed every reasonable step in ensuring transparency and fairness according to the terms provided by the Applicant's Guidebook for raising their concerns

This now appears (potentially) not to be the case. The IRP panel has effectively indicated that the consensus GAC Advice on .Africa, which constitutes government's formal objection process, should not be taken into account and instead the Dot Connect Africa (DCA) application review should be reinstated to go through the evaluation process.

If the DCA application is referred to the geographic names panel (GNP) for evaluation will GAC Advice be regarded as a formal objection, by relevant governments, against the DCA application? Will the GNP not only gauge the level of government support for the DCA application, but also and more importantly what effect the government objection has on the DCA application?

We are of the opinion that the GAC provided adequate rationale, which culminated in consensus advice contained in the Beijing communiqué of 2013. African Governments specifically provided rationale outlined in their early warning notices to DCA and provided DCA with an opportunity to address concerns raised.

We are of the opinion that the outcome of the Initial Evaluation of DCA's application will provide much needed clarity and closure of this long-standing issue and we urge the ICANN Board to treat this matter with the urgency and priority that it deserves.

Please accept, Dear Sir, the assurance of my highest consideration.

**Dr. Elham M.A. IBRAHIM (Mrs)**
Commissioner
Infrastructure and Energy

Cc:    **Fadi Chehadé**
       President and CEO of ICANN
       Email: fadi.chehade@icann.org: cassia.oliveira@icann.org

**Subject:** [Staff Board Support] Fwd: Independent Review Panel (IRP) recommendation on the matter between DCA and ICANN related to Dot Africa gTLD

**Date:** Tuesday, July 14, 2015 at 7:40:58 AM Pacific Daylight Time

**From:** Steve Crocker (sent by staff-brdsupport-bounces@icann.org <staff-brdsupport-bounces@icann.org>)

**To:** Staff-BrdSupport

**CC:** Steve Crocker

FYI.

Steve


Begin forwarded message:


**From:** Steve Crocker <steve.crocker@icann.org>
**Subject: Re: Independent Review Panel (IRP) recommendation on the matter between DCA and ICANN related to Dot Africa gTLD**
**Date:** July 14, 2015 at 10:38:50 AM EDT
**To:** Awa Cheikh <CheikhA@africa-union.org>
**Cc:** Steve Crocker <steve.crocker@icann.org>, Fadi Chehadé <fadi.chehade@icann.org>, Cassia Oliveira <cassia.oliveira@icann.org>, Moctar Yedaly <YedalyM@africa-union.org>

Awa Cheikh,

Receipt is acknowledged. Dr. Ibrahim's letter has now been forward to the full board and appropriate staff. Please convey my personal regards to Dr. Ibrahim.

Steve Crocker
Chair, ICANN Board of Directors

On Jul 14, 2015, at 10:16 AM, Awa Cheikh <CheikhA@africa-union.org> wrote:


Dear Sir,

Greetings from African Union Commission, Department of Infrastructure and Energy

Please find attached herewith a letter on the above-mentioned subject for your consideration.

Kindly acknowledge receipt .

Thank you


**Awa Cheikh**

Private Secretary **|** Infrastructure & Energy Department **|** African Union Commission

Tel: +251-11-5517700 | Fax:  | E-mail: CheikhA@africa-union.org | Web:www.au.int

Addis Ababa | Ethiopia

<imagea5804d.GIF>                              **Please consider the environment before printing this email message**

<Letter-Chairman of the Board of ICANN.pdf>

**Subject:** [Staff Board Support] Fwd: Independent Review Panel (IRP) recommendation on the matter between DCA and ICANN related to Dot Africa gTLD

**Date:** Tuesday, July 14, 2015 at 7:26:55 AM Pacific Daylight Time

**From:** Steve Crocker (sent by staff-brdsupport-bounces@icann.org <staff-brdsupport-bounces@icann.org>)

**To:** Icann-board ICANN, Staff-BrdSupport, Tarek Kamel, Sally Costerton, Emily Crane Pimentel, Akram Atallah, Theresa Swinehart, Ashwin Rangan, Allen Grogan, Susanna Bennett, David Olive, David Conrad, Nora Abusitta

**CC:** steve@shinkuro.com

This just arrived from Dr. Elham M. A. Ibrahim, Commissioner for Infrastructure and Energy in South Africa. It's exactly in line with what Tarek's memo suggested would happen.

I am about to send my comments regarding the resolution and rationale.

I have included everyone on this message and will do the same on the next. Not everyone needs to read the details, but I think it's important for everyone to be aware of the multiple pieces of this puzzle.

Thanks,

Steve


Begin forwarded message:


> **From:** Awa Cheikh <CheikhA@africa-union.org>
> **Subject: Independent Review Panel (IRP) recommendation on the matter between DCA and ICANN related to Dot Africa gTLD**
> **Date:** July 14, 2015 at 10:16:35 AM EDT
> **To:** "Steve@shinkuro.com" <Steve@shinkuro.com>, "steve.crocker@icann.org" <steve.crocker@icann.org>
> **Cc:** "fadi.chehade@icann.org" <fadi.chehade@icann.org>, "cassia.oliveira@icann.org" <cassia.oliveira@icann.org>, Moctar Yedaly <YedalyM@africa-union.org>


Dear Sir,

Greetings from African Union Commission, Department of Infrastructure and Energy

Please find attached herewith a letter on the above-mentioned subject for your consideration.

Kindly acknowledge receipt .

Thank you


**Awa Cheikh**

Private Secretary | Infrastructure & Energy Department | African Union Commission

Tel: +251-11-5517700 | Fax:  | E-mail: CheikhA@africa-union.org | Web:www.au.int

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