



May 11, 2015

**The Honorable Congressman Greg Walden**

Chairman of the House Sub-Committee on Communications and Technology

Energy and Commerce Committee

United States House of Representatives

114<sup>th</sup> United States Congress

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Dear Chairman Walden,

**Subject: Request to testify as a Witness in the Congressional Public Hearing on “Stakeholder Perspectives on the IANA Transition” and Preliminary Submission of Testimony for Committee Consideration**

We hereby write to respectfully request to testify as a Witness in the Congressional Public Hearing that has been scheduled by your Communications and Technology Sub-Committee on ***“Stakeholder Perspectives on the IANA Transition”***.

Our organization, DotConnect Africa Trust is a non-profit organization established under the laws of the Republic of Mauritius on 15 July 2010, with its principal place of business in Nairobi, Kenya. DCA was formed with the charitable purpose of advancing education in information technology in African society; and (b), in connection with (a), providing a continental Internet domain name to provide access to Internet services for the people of Africa and for the public good. DCA Trust intends .AFRICA to serve the diverse needs and purposes of the global internet community, but with special focus on promoting Internet use in Africa. It has already launched two charitable initiatives, miss.africa and generation.africa. For further information on DCA Trust, see <http://www.dotconnectafrica.org/about/mission-and-objective/>.

DCA Trust has been involved in public policy engagement and advocacy efforts regarding the Internet Governance initiatives of the United States Congress, especially with respect to leadership oversight of the new generic Top-Level Domain (gTLD) Internet expansion program of ICANN and the Multi-Stakeholder model of Internet Governance that is centered on US-based institutions.

DCA Trust has also sent various communications to your office in the past. <http://dotconnectafrica.org/communications/us-congress/>

DCA Trust and its affiliated technology organizations, DCA Registry Services Limited and the Internet Business Council for Africa (IBCA) an industry representative are also active members of the ICANN-led Internet Community.



We are therefore making the accompanying official submission that would serve as testimonial inputs to the hearing that your Sub-Committee has officially scheduled, which we believe contains our important recommendations that can also be accepted as part of the scheduled Congressional Hearing and read into the records of your proceedings.

Thanking you in anticipation of your most highly esteemed considerations, as we wish to use this opportunity to commend and congratulate your Congressional Sub-Committee for the assiduous work of overseeing these important leadership tasks for the US national public and global good.

Most respectfully yours,

*Sbekele*

Ms. Sophia Bekele, BS, MBA, CISA, CCS, CGEIT  
Executive Director/Chief Executive, DCA Trust  
Former Policy Advisor to ICANN gNSO  
For and on Behalf of: DotConnectAfrica Trust & DCA Registry Services Ltd. and  
Internet Business Council for Africa (IBCA)

cc: Ranking Member and Honorable Members of the House Sub-Committee on Energy and  
Commerce, Sub-Committee on Communications and Technology

cc: Energy and Commerce Committee Staff



## 1. Witness Profile

DCA Trust will be represented in the proceedings by Ms. Sophia Bekele Eshete, Founder and Executive Director of DCA Trust, and CEO of CBS International California.

Sophia Bekele is a widely acknowledged business leader and international entrepreneur, corporate governance expert, global policy advisor, public engagement specialist, activist and philanthropist.

Her wide-ranging experience spans both the public and private sectors where she has done impactful work on auditing, corporate and Internet governance, risk management, Internet policy, and enterprise systems. She is a consummate professional whose business interests include inward investments and technology transfer to emerging economies in Africa.

Ms. Bekele is currently the Founder and Executive Director of DotConnectAfrica (DCA) Trust - an organization that she set up for Internet Policy public engagement, ICT knowledge generation and management, Internet domain registry services, and gender-focused youth empowerment programs in Africa.

Sophia Bekele organized and led the hugely successful 6-year Yes2DotAfrica global awareness campaign for the Africa Internet domain name; after which she directed the technical and investment framework to apply for the .Africa new top-level domain under ICANN's Global Internet Expansion Program. She is also the Founder/CEO of CBS International, a California-based company that performs technology transfer to emerging economies and also provides corporate governance services to US-based clients. Moreover, Sophia Bekele is the Chief Convener of the Internet Business Council for Africa (IBCA), an industry group that represents the African private and non-governmental sector in Global Internet Governance matters.

Ms. Bekele is quite active in affairs of Internet governance and in recent years, has been performing high-level public engagements and policy advocacy at the level of the United States Congress in Washington, DC. Her work is frequently communicated to the pertinent main and sub-committees that oversight Internet and Technology Policy (Communications, Technology and the Internet) in both Houses of Congress. She has been a strong advocate of accountability improvements at ICANN. For further information on Ms. Bekele, please see the following links: [http://icannwiki.com/index.php/Sophia\\_Bekele](http://icannwiki.com/index.php/Sophia_Bekele) [http://en.wikipedia.org/wiki/Sophia\\_Bekele](http://en.wikipedia.org/wiki/Sophia_Bekele)

## 2. Introduction

We begin by noting that your Sub-committee has scheduled this hearing on an important issue that concerns the complete devolution of the Internet technical management functions under the Internet Assigned Names Authority (IANA) Contract (the 'IANA Contract') from the US National Technology & Information Administration (NTIA) to a Global Multi-Stakeholder Community that is centred on the Internet Corporation for Assigned Names and Numbers (ICANN) – the organization that has, in recent years, been handling the IANA Contract as a US Federal Contractor under the supervision of the NTIA. We



believe that this scheduled Congressional hearing could not have come at a better time, and that the planned program would no doubt greatly assist the legislative and executive oversight work that falls within the scope of sectoral responsibilities of your esteemed Sub-Committee. Moreover, it would also provide a good platform for interested stakeholders to share their insight into this evolving complex issue of global importance, as operative public policy in this regard is led and formulated by Congress.

Furthermore, apart from applying for the .Africa new generic top-level domain name under ICANN's new gTLD program, our organization is currently engaged in an Independent Review Process (IRP) Panel proceeding with ICANN that is administrated by the International Centre for Dispute Resolution (ICDR) of the American Arbitration Association (AAA), New York. Therefore, our first-hand experience with ICANN accountability mechanisms may be of invaluable help towards achieving the sort of changes that are proposed by the Cross-Community Working Group (CCWG) to improve ICANN's accountability. We are happy that this matter has also been duly highlighted in your Majority Pre-Hearing Memorandum.

We think that our participation as a witness will enable us share our perspectives regarding the issue to be deliberated upon by your Committee, and by so doing, make valuable contributions as relevant Internet public policy is shaped regarding the IANA Transition devolution process.

### **3. Amplified Need for Congressional Oversight and Closing of Existing Legal Loopholes**

Within the ICANN community that we operate in, and as part of our ongoing public engagement efforts, we have not only championed improved accountability of ICANN's internal processes, but have also strongly advocated increased Congressional oversight of the NTIA and ICANN. See for example, ["Congress Will Oversight ICANN': And You Can Take That to the Bank"](#).

In a recent commentary that we published following the US Senate Commerce, Science and Transportation Committee hearing on 'Preserving the Multi-stakeholder Model of Internet Governance' which took place in February 2015, we further articulated and amplified a list of recommendations. See also for example, ["No Legal Basis for IANA Transition": A Post-Mortem Analysis of Senate Committee Hearing](#). In this analysis, amongst other recommendations, we have posited that "Congressional oversight of the 'IANA Transition' should be deepened to ensure that any proposals developed and submitted by the ICANN-led Global Multi-Stakeholder Community are independently evaluated, but not by the same group of people that prepared the proposal in the first place."

Therefore, bearing in mind the historical and unassailable role that has been played for nearly five decades by the United States Government and Institutions in developing the Internet and making it available as a 'technological resource for globalization' to the entire world, the devolution of the Internet technical management functions to a non-governmental Global Multi-Stakeholder Community on one hand, implies the privatization of a US governmental property which must satisfy the canons of diligent accountability and asset control guidelines; and, on the other hand, the process must also address the imperatives of balancing diverse stakeholder interests to ensure that any governance regime that results after the IANA Transition is accountable with in-built 'checks and balance' mechanisms.



As we have gathered from the Majority Memorandum that has been prepared for this hearing, we completely agree with your assessment that many questions remain even at this proposal development stage.

We have always noted the singular fact that no specific organization has been designated based on explicit Congressional mandate to take full statutory responsibility for this role – following the IANA Transition. This patent legal loophole must be closed by Congress through direct legislation. Going forward, we wish to stress that the IANA Transition cannot take place amidst a non-existent or opaque legal framework.

Therefore, our position has always been that the entire process must be handled with due deliberation and that sufficient time must be taken to address all these multi-faceted questions that have not yet been answered by the drivers of this process.

#### **4. The Problem of ‘Multi-stakeholder’ and the NETMundial Initiative (NMI)**

In attempting to answer some of these many outstanding questions, one recent development needs to be highlighted. For example, following the announcement of the ‘IANA Transition’ by the NTIA during the spring of 2014, a ‘Global Multi-Stakeholder Meeting on the Future of Internet Governance’ was convened in Sao Paulo, Brazil in April 2014 to discuss the future of Multi-Stakeholder Internet Governance which resulted in the inception of the NETMundial Initiative (NMI). Even though the notion has not yet been conveyed by ICANN and the NTIA to Congress, and while understanding that diverse interests represented on the NMI Inaugural Coordination Group may have differing agendas and stakeholder interests on the future of Global Internet Governance, one is not too sure whether the NMI was thought up as a preparatory step that will formally organize a Global Multi-stakeholder Group that will eventually takeover the IANA critical functions or not.

The fact that the definition of ‘multi-stakeholder’ remains nebulous could prove troubling since even the NMI could pass for a ‘Global Multi-Stakeholder Community’. Nevertheless, the conveners of the NMI have not yet properly explained why this new organization was quickly proposed in April 2014 soon after the US-NTIA announced the ‘Transition’ in March 2014; against the backdrop that the NMI as contemplated (or as designed) does not fulfill any existing mainstream role nor is it designed to undertake any of the activities that are currently handled by any of the different bodies that operate within the Global Internet Governance ecosystem. Thus, the NMI roles, activities and organization remain largely undefined even as ‘Multi-Stakeholder’ remains undefined. Accordingly, efforts must be exerted at the level of Congress to ensure that the NMI is not used as a ‘Trojan Mechanism’ to surreptitiously takeover the IANA Transition at any futurity.

Thus, it might be readily supposed that the altruistic interest and motives of the United States Government in devolving the IANA technical functions to a ‘Global Multi-stakeholder Community’ may not converge with the interests of an NMI stakeholder like the Government of Brazil; if for example, the NMI is used at some futurity to form the yet undefined ‘Global Multi-stakeholder Group’ that will take over a



considerable part of the IANA functions role; which could unwittingly act against the expectations and principles enshrined in the 'Notice and General Instructions on the IANA Transition' that were communicated by the NTIA at the inception of the process.

Accordingly, such issues for instance, underpin some of the important recommendations that we have already proffered - that the IANA Transition process must not be rushed, and that it should be handled with proper deliberation; and that Congress must be allowed an unfettered hand, and not be steamrolled into approving any resulting proposals until all questions – including those relating to national security - have been fully clarified and satisfactorily answered. As a matter of fact, the overall National Security Assessments of the IANA Transition should also involve the input of the National Security Agency (NSA), US Cyber Command, and other federal intelligence services that handle and share these very important responsibilities based on inter-agency cooperation. The need for ample due-process oriented thoroughness on the part of Congress, the GAO, and such national security organizations cannot be over-emphasized. Therefore, the IANA Transition should be subjected to the important hurdle of 'National Security Clearance'.

## **5. Recommendation for the Establishment of the United States Internet Regulatory Authority (USIRA)**

We have also taken the additional step of proposing the establishment of the United States Internet Regulatory Authority – as a new independent body with legislative mandate that would be directly responsible to Congress – which would work in cooperation with the NTIA to exercise oversight and supervisory responsibilities over ICANN – and any Post-IANA Transition governance regime. We reiterate our belief that the US Congress should not trust ICANN to regulate itself because of the compelling need to avoid the example of FIFA – an institution that governs and regulates the global sport of soccer that is widely perceived as unaccountable; and that a new body – the USIRA - that will handle policy has to be established; while ICANN and the Internet technical community will handle Internet technical implementation management and related Domain Names Service (DNS) roles such as naming, numbering addressing and allied activities.

## **6. The Need for Additional Time to Allow Deliberative US Federal Inter-Agency Inputs**

In terms of timing, we note that the IANA Transition will be delayed until September 30, 2015 in the first instance based on the official wishes of Congress as expressed in the recent US\$1.1 trillion Omnibus Spending Bill. We also note that the Domain Openness Through Continued Oversight Matters Act (DOTCOM Act) of 2015 also specifically provides – via Section 2 of the Act - for additional time so as to enable the United States Government Accountability Office (GAO) to properly review the IANA Transition proposals; and until such a review is completed and a formal report submitted by the GAO to Congress, the US-NTIA should retain all existing DNS responsibilities.



## **7. Conclusion**

We therefore believe that such robust provisions in the DOTCOM Act of 2015 would allow time for proper and reflective deliberation; and time for the enactment of relevant governing legislation to shepherd the entire process. We are also of the belief that an indefinite time delay would be generally helpful to the decision making process of Congress, and as such, the IANA Transition should not occur before March 2017 at the earliest. This suggested time boundary takes into consideration the temporal restrictions specified in the existing US\$1.1 trillion Omnibus Spending Bill which expressly defunds the IANA Transition until September 30, 2015. Again, additional time would be required to undertake the GAO Administrative Review stipulated in the DOTCOM Act, plus the envisaged reporting period; and the time that might be spent on elections during the fall of 2016, plus the lead-time to the establishment of a new Federal Administration and new Congress (the 115<sup>th</sup>) during the first quarter of 2017.