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COMMITTEES:
TRANSPORTATION AND
INFRASTRUCTURE

OVERSIGHT AND
GOVERNMENT REFORM

JUDICIARY

Congress of the United States
House of Representatives
Washington, DC 20515-4327

June 10, 2015

Mr. Fadi Chehadé
Chief Executive Officer
Internet Corporation for Assigned Names and
Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Dr. Steven Crocker
Board of Directors Chair
Internet Corporation for Assigned Names and
Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Dear Mr. Chehadé and Dr. Crocker:

We write to urge the Internet Corporation for Assigned Names and Numbers (ICANN) to address concerns that it may become susceptible to governmental interference without due consideration of policies developed through the multistakeholder process under its current structure. ICANN's Governmental Advisory Committee (GAC) appears to have overridden several community-developed policies in recent years. Such an outcome is incompatible with the bottom-up, multistakeholder model reflected in ICANN's Articles of Incorporation and By-Laws. The multistakeholder model is designed to benefit the entire Internet community through an open and transparent process and to prevent government capture. It is vital that ICANN address accountability to the multistakeholder community as part of the Internet Assigned Numbers Authority (IANA) transition process. We call on ICANN to meaningfully address these concerns prior to the proposed IANA functions transfer.

Recent reports indicate that the GAC has sought to increase its power at the expense of the multistakeholder system.¹ Although government engagement in Internet governance is prudent, we are concerned that allowing government *interference* threatens to undermine the multistakeholder system, increasing the risk of government capture of the ICANN Board. For example, the GAC has twice called on ICANN to suspend programs that would allow Internet users to register domain names that include country and territory names,² as well as associated 2-

¹ Trevor Little, *ANA Warns That ICANN Decision-Making Could Be Reduced to Political Logrolling*, WORLD TRADEMARK REVIEW (Sept. 16, 2014) (“[T]he proposal has the potential to disrupt ICANN’s bottom-up, multi-stakeholder approach and place ICANN decision-making firmly into the international political arena.”), <http://www.worldtrademarkreview.com/blog/detail.aspx?g=cf465195-817d-4d98-a546-893ce81739f5>. It has also come to our attention that some GAC members have called for a lower threshold to influence the ICANN Board’s application decisions. See, e.g., *GAC Sessions*, ICANN (Feb. 7, 2015), <http://singapore52.icann.org/en/schedule/sat-gac/transcript-gac-07feb15-en.pdf> (reviewing whether advice should require strict consensus of GAC members).

² Letter from Thomas Schneider, Chair, Governmental Advisory Committee, to Dr. Stephen Crocker Chair, ICANN Board of Directors (Apr. 23, 2015) (“[T]he use of country and territory names in the DNS is a sensitive matter for many GAC members, an aspect highlighted repeatedly by the GAC.”), <https://www.icann.org/en/system/files/correspondence/schneider-to-crocker-23apr15-en.pdf>.

letter country codes.³ In the case of the 2-letter codes, ICANN has altered policy based on government demands, despite the negative implications for speech and the world economy. This has resulted in the exclusion of the words “me,” “it,” and “in” as domain names, despite the lack of any legal basis for such an objection from the relevant governments.⁴ In 2014, the GAC likewise advised, without any legal basis, that the ICANN Board reject Amazon’s application for a new generic top level domain (gTLD), notwithstanding the fact that the application met the ICANN’s stated requirements.⁵ Rather than evenly apply these rules, the ICANN Board succumbed to political pressure from several governments.⁶

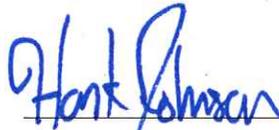
As the plans for the IANA transition develop, it is critical that ICANN’s rules and policies not be subverted by government interference. We call on ICANN to support efforts in the multistakeholder community to clarify in its bylaws that GAC advice requires Board action only when that advice is approved by all GAC members. Furthermore, we urge ICANN to support the call for increased transparency through a requirement that ICANN publicly disclose relationships and activities with government officials.

Before the transition moves forward, it is essential that ICANN corrects past harms, adopts rules to ensure that GAC follows community guidelines and requirements established by the multistakeholder process, and provides stakeholders with a transparent and independent mechanism for accessing justice.

Sincerely,



Blake Farenthold
Member of Congress



Henry C. “Hank” Johnson, Jr.
Member of Congress

³ Letter from Thomas Schneider, Chair, Governmental Advisory Committee, to Dr. Stephen Crocker Chair, ICANN Board of Directors (Jan. 26, 2015), <https://www.icann.org/en/system/files/correspondence/schneider-to-crocker-26jan15-en.pdf>.

⁴ See Letter to Dr. Stephen Crocker Chair, ICANN Board of Directors (Feb. 5, 2015), <https://www.icann.org/en/system/files/correspondence/gtld-rysg-to-crocker-05feb15-en.pdf>; Eric Pfanner, *Amazon Rejected as Domain Name After South American Objections*, N.Y. TIMES BITS (July 18, 2013, 5:21 PM), http://bits.blogs.nytimes.com/2013/07/18/amazon-rejected-as-domain-name-after-south-american-objections/?_r=0.

⁵ *GAC Communiqué*, GOVERNMENTAL ADVISORY COMMITTEE (July 18, 2013), <http://durban47.icann.org/meetings/durban2013/presentation-gac-communique-18jul13-en.pdf>.

⁶ Pfanner, *supra* note 4.

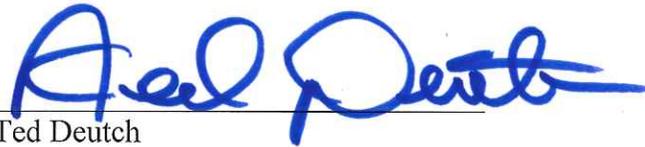
Letter to Mr. Chehadé and Dr. Crocker

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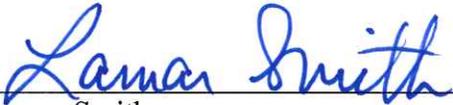
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Mimi Walters
Member of Congress



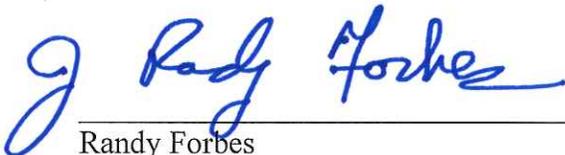
Ted Deutch
Member of Congress



Lamar Smith
Member of Congress



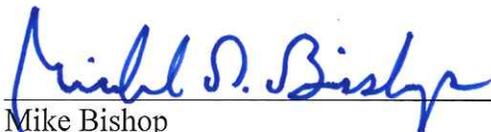
Trent Franks
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