

# EXHIBIT A



Africa's map in the digital inclusion!

**URGENT**

22<sup>th</sup> November 2010

The Chief Executive Officer  
 Internet Corporation for Assigned Names & Numbers (ICANN)  
 4676 Admiralty Way, Suite 330  
 Marina Del Rey, CA 90292-6601  
 United States of America

Dear Sir,

**Subject: [Our Objection to the Candidacy of Monsieur Pierre Dandjinou for the Board Seat of ICANN](#)**

We would like to register our principled objection to the proposed candidacy of Monsieur Pierre Dandjinou, who supposititious representation of the “Community at Large” on the Board Seat of the Internet Corporation of Assigned Names & Numbers (ICANN) is now in question.

We have already expressed our formal objection through the appropriate ALAC channel, dated 14 November 2009 which the Chair and relevant ICANN staff is in advisement, and our letter of objection has been posted for the community. However, we now write to you concerned on three matters:

- 1) The At-Large Board Selection Design Team (ABSdt) made it a point to state on the [Statement of Interest Form](#) supplied to the candidates: "Actual and potential conflicts of interest will not necessarily be disqualifying". This is even contrary to ICANN COI overall principles. As such, the ABSdt took no position regarding failure to make disclosure on the participant.
- 2) On another note, DCA would like to make you aware of an unauthorized letter circulating throughout the African and ICANN community by our opponents attempting to negate the authentic letter of endorsement that we has been granted by the Chairman of the AU, earlier to that.
- 3) Also, an unfounded allegation is circulating around ICANN/AfriICANN community that DCA misinformed the Ethiopian government wrong information on AfriNic training, which resulted in embarrassment and regrets by the Ethiopian Government.

The DotConnectAfrica (DCA) Organization which we represent is a very important stakeholder in this matter and intends to apply for the gTLD for Africa in the upcoming application round. As such we believe that any Board Seat for Africa is occupied by somebody we regard as a fair player, and one that would help establish and promote a level playing field anchored on transparent processes to promote the DotAfrica Initiative. We presently believe that Monsieur Pierre Dandjinou has woven a web of conflicting interests around himself by not fully disclosing his Interest – personal or otherwise – in wanting to occupy the Board Seat on ICANN

Monsieur Pierre Dandjinou has been elected as the Chair of a Task Force set-up by the African Union on DotAfrica, even though we consider the process of electing him as Chair of the AU Task Force as ‘un-representative’ since most of the key regional blocks and countries in Africa; to wit, Nigeria, Kenya, South Africa and Egypt did not attend the meeting when this Task Force was elected and Pierre Dandjinou became its Chairperson. Without mincing words, our understanding is that this was one elaborate, yet carefully stage-managed and manipulated process, rather shambolic exercise.

Anything that has a potential major impact on the global visibility of Africa on the Internet should be seen as inclusive, open and participatory; not one that could be hijacked by a certain interest group based on specious claims and manifestly dishonorable posturing.

ICANN is already aware that DotConnectAfrica received a firm endorsement from the AU Chairperson in 2009. However, in 2010, another letter was sent to us with a copy to ICANN with an implication of withdrawal that was purportedly signed by MR. Erastus J. O. Mwencha, Deputy Chairperson of the African Union Commission. We are still consternated and trying to understand how an endorsement originally signed by the AU Chairperson could have been quickly withdrawn and treated as a fait accompli based on a letter issued in the name of the Deputy Chairperson of the Commission. This scenario could be likened to US President Obama signing an Executive Order, which would be later withdrawn by the fiat of US Vice-President Joe Biden. Under normal circumstances this would be against every protocol, and rules of procedure, and would undermine institutional cohesion and credibility, especially within a governmental or inter-governmental organization.

It is on the basis of this assessment that we have come to the conclusion that the second letter was an exercise in reckless manipulation which was simply cooked up to block our efforts and confound everyone. This will not stand. Furthermore, the so-called AU Task Force was only established after this second letter.

Consequently, we would like to convey our deep feeling that those who opposed DCA, and manipulated the AUC to write the second letter based on questionable procedures, have again: 1) constituted themselves into an unrepresentative 'Task Force'; and 2) constituted themselves into a Cabal to promote the (s)election of the head of this unrepresentative Task Force to the Board Seat of ICANN so as to give the same individual additional leverage to work against our corporate aims whilst rolling back all the successes that DCA has achieved to date.

In addition to the above, we also know that Monsieur Pierre Dandjinou and his business partner who have operated as both Chair and Vice-Chair of AfriNIC, and are also both Chair and Vice-Chair of the AU Task Force. The conflicting interests are rather obvious for everyone to see, and need no further proofs or supporting evidence to elaborate. We therefore rightly believe that allowing Pierre Dandjinou to win the Board Seat of ICAAN would be tantamount to simply promoting the interests of AfriNIC and the personal interest of Pierre Dandjinou and the group interest of a hidden cabal, all based on opaque processes, even though their conflicting and often crisscrossing interests are very visible to one and all. Even at the risk of over-stressing a point already made, we believe Pierre Dandjinou is simply a discredited and biased candidate who should not be trusted with this important seat on the Board of ICANN.

Post DCA's complaint on Candidate, the Vice-Chair above Dr. Nii Oquanor, also gave a loud warning to ICANN and ALAC on AfriICANN forum not to be manipulated by DCA. This based on unfounded allegation that the Principal of DCA prevented Afrinic training in Ethiopia by supplying wrong information to the Ethiopian government, who then regretted the situation afterwards. While we are shockingly surprised as to why Dr. Nill speaks on behalf of the Ethiopian government, we would like to advise your offices and ALAC that his allegations are false and manipulative itself. Post AfriNic incident, in October 2008, DCA has received its esteemed endorsement from the Ethiopian government on dotArica (attached). It is also a public fact that AfriNic has not since been invited by the Ethiopian Government since. This certainly does not demonstrate an action of a regretful government. We therefore, wants to assure ICANN and ALAC, that DCA, its Principal Ms. Bekele, and the dotafrica initiative is in excellent standing with the Ethiopian government. Should verification be required, the Ethiopian Embassy in Washington, as well as the Ethiopian Telecom in Ethiopia can easily be contacted. The Principal and the dotafrica initiative enjoy tremendous support by the Ethiopian government.

We therefore hope that you will seriously consider all the bases of our principled objection as registered via this correspondence and act in the best interest of fair play, so that all key stakeholders in this matter will view you and ICANN as an honest, principled and impartial arbiter.

Yours sincerely,

With highest regards,

*Sbekele*

Ms. Sophia Bekele, B.S., M.B.A., C.I.S.A, C.C.S, CGEIT,  
Ex. Policy Advisor to ICANN (2005-07)  
Executive Director (.Africa),  
[www.dotconnectafrica.org](http://www.dotconnectafrica.org)

cc: Cherly Langdon, Heidi Ullrich, BCEC  
Attachment: letter of endorsement from Ethiopia, 2009

# EXHIBIT B



Ref: dotafrica/2010/5/20

Africa's map in the digital inclusion!

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20 May 2010

H.E. Jean Ping  
Chairperson of the African Union  
African Union, Addis Ababa, Ethiopia

**RE: The“.Africa” initiative**

Your Excellency,

Following your esteemed endorsement letter in 27 August 2009 for our organization, we have made a significant financial commitment promoting the dotafrica initiative across the continent. The feedback and support we have received has been truly overwhelming.

Also in reference to the letter from your Deputy, Mr. Mwencha, dated 16 April 2010, and that which was sent to us 4 May 2010, we fully support the ICANN open process for application and we are quite confident based on our due diligence to date, to be one of the leading contenders.

Sincerely,

*Sbekele*

Sophia Bekele (Ms), BS, MBA, C.I.S.A, C.C.S, CGEIT  
Former Policy Advisor to ICANN  
Executive Director,  
DotConnectAfrica (DCA)  
[www.dotconnectafrica.org](http://www.dotconnectafrica.org)

Contact Information Redacted

Fax: Contact Information Redacted

**Cc:** Mr. Erastus J.O Mwencha  
Deputy Chairperson of African Union  
Addis Ababa, Ethiopia

Chief Executive Officer (CEO)  
Internet Corporation for Assigned Names & Numbers  
Marina Del Ray, CA , USA  
4676 Admiralty Way, Suite 330  
Marina Del Ray, CA, 90292-6601  
United States of America, Fax: +1.310.823.8649

Mrs. Kim Gueho  
Corporate Secretary  
DotConnectAfrica (DCA),  
Contact Information Redacted  
Fax: Contact Information Redacted

# EXHIBIT C



April 02, 2013

Mr. Fadi Chehadé  
The President and Chief Executive Officer  
Internet Corporation for Assigned Names & Numbers (ICANN)  
4676 Admiralty Way, Suite 330  
Marina Del Rey, CA 90292-6601,  
United States of America

Dr. Stephen Crocker  
Chairman of the Board  
Internet Corporation for Assigned Names and Numbers (ICANN)  
Marina Del Rey, CA  
U.S.A

Dear Sirs,

**Subject: *Regarding the letter sent to ICANN by Dr. Ben Fuller of the Namibian Network Information Centre & the non-existent endorsement for the UniForum/African Union bid by the Namibian Government***

It has been brought to the attention of DotConnectAfrica Trust that Dr. Ben Fuller, a Director of the Namibian Network Information Centre (Pty.) Limited (NA-NiC), has sent an official letter to Mr. Fadi Chehadé, President/CEO of ICANN, regarding the statements we made about Dr. Eberhard Lisse in our recent letter to ICANN.

We believe that Dr. Fuller's letter is of no consequence, and should actually be ignored by ICANN. The letter is a red-herring and has been deliberately introduced by Dr. Ben Fuller to distract the attention of ICANN away from the important issues that DCA Trust had earlier communicated in its letter to ICANN. Dr. Fuller speaks of facts that he does not know about, and as such, is a very unreliable witness who cannot vouch for anyone, least of all, Dr. Eberhard Lisse.

**We strongly recommend that Dr. Fuller should be immediately sanctioned for engaging in blatant chicanery.** Dr. Ben Fuller does not hold brief or a power of attorney for Dr. Eberhard Lisse, and as such should not speak for any named party in our letter to ICANN. Dr. Fuller should have been more circumspect, and allowed the named individuals to respond first, instead of attempting to intervene prematurely in the discourse just to prove that he is more Catholic than the Pope.

Indeed, retracting nothing, we stand firmly by our position, and hereby wish to re-confirm the facts that we know as follows:





1. The Namibian country-code Top-Level Domain (ccTLD) has been delegated by ICANN to the Namibian Network Information Centre (NA-NiC).
2. The IANA delegation record for the Namibian ccTLD may be found at <http://www.iana.org/domains/root/db/na.html>
3. It is not in doubt that Dr. Eberhard Lisse is the managing partner of the Namibian Network Information Centre. Please kindly refer to Eberhard Lisse's ICANN Wiki record which may be found at: [http://icannwiki.com/index.php/Eberhard\\_Lisse](http://icannwiki.com/index.php/Eberhard_Lisse)
4. According to Dr. Eberhard Lisse's own testimony, the Namibian ccTLD is 'personally' registered to him. We hereby cite as our evidence, a copy of the presentation made by Dr. Eberhard Lisse at the ICANN Meeting in Sao Paulo, Brazil in 2006. A copy of this presentation may be found in the ICANN archives which is available at: <http://archive.icann.org/en/meetings/saopaulo/presentation-lisse-07dec06.pdf>

It is quite possible that Dr. Ben Fuller is not aware of this particular presentation that was made by Dr. Eberhard Lisse in 2006 hence our statement that "Dr. Fuller speaks of facts that he does not know about."

5. Whilst it is true that the NA-NiC manages the .NA country-code Top-Level Domain (ccTLD), Dr. Eberhard Lisse continues to treat the Namibian ccTLD operation as something that was registered to him 'personally', hence our insinuation of a 'one-man show' ccTLD operation. As a matter of fact, Dr. Eberhard Lisse's personal/family web site <http://www.lisse.na> actually contains a contact link "**for NA-NiC or DNS related purposes**".

We therefore believe that we have not made any false or misleading statements about Dr. Eberhard Lisse. Even so, if he thinks that DCA Trust has misrepresented him, Dr. Eberhard Lisse is free to follow whatever legal channels that are available to him, and pursue his case against DCA Trust in any jurisdiction anywhere in the world, and seek redress. We stand ready to defend ourselves.

Having made the above substantiation; **we now wish to squarely address the issue of the non-existent endorsement for the UniForum/African Union bid by the Namibian Government:**

The letter dated 16<sup>th</sup> November 2012 (with AU Reference No. CIE/L120/321.12) that has been forwarded by Dr. Ben Fuller was presumably **written on the letterhead of the Ministry of Information and Communication Technology of the Republic of Namibia**, and addressed to Dr. Elham M. A. Ibrahim, the Commissioner of Infrastructure and Energy of the African Union Commission.



The letter communicates the position of the Namibian Government regarding the DotAfrica project and ***“applauds the AU initiative and urges the AU to proceed in earnest to have the .africa registry established to avoid a potential hijack of regional names on Africa for private use.”***

The same letter further expressed the notion that ***“the regional geographic TLD strings ‘.africa, .afrique and .afrika’ be set aside by ICANN for the region’s use under the auspices of the AU and that the new gTLD bid process should not result in the string(s) being inadvertently assigned without the AU determination.”***

Again, we are shocked that **Dr. Ben Fuller has tried to ‘pass off’ the above letter as an ‘endorsement’ for UniForum’s .Africa new gTLD application** by the Namibian Government just to prove that the Namibian Network Information Centre has not endorsed UniForum in any way.

As a matter of fact, this letter simply conveys the notion that the Namibian Government supports the idea that the .Africa name should be reserved for the African Union Commission for determination. **No one should confuse a letter sent by an African country government to the AU to support the request made by the AU to ICANN that the .Africa name should be reserved for it by ICANN, as a valid endorsement for UniForum ZA Central Registry as an applicant for .Africa.**

To further buttress our position, we wish to state the following in the most unequivocal terms:

- i. The official applicant contending for the .Africa string is UniForum ZA Central Registry. We wish to note that a careful reading of the letter that was written by the Namibian Ministry of Information and Communication Technology has not mentioned UniForum and its .Africa application anywhere. **It is therefore crystal clear that this is not really a letter of endorsement for UniForum’s application for the .Africa new gTLD.**
- ii. The letter cited by Dr. Ben Fuller that was written by the Namibian Ministry of Information and Communication Technology was dated 16<sup>th</sup> November 2012 to confirm to the African Union that **the Namibian Government supports the notion that the .Africa name(s) should be reserved by ICANN for the AU’s determination; meanwhile that case had been thoroughly treated and the results communicated by ICANN to the African Union Commission as of 8<sup>th</sup> March 2012.**

We kindly refer you to see the letter that was written by Dr. Stephen Crocker, Chairman of the ICANN Board to the AU Commissioner, Dr. Elham M. A. Ibrahim in response to the request(s) made by the AU and the African Ministerial Roundtable in Dakar, Senegal in late 2011. <http://www.icann.org/en/news/correspondence/2012>

Therefore, it is quite apparent that the letter from the Namibian Ministry of Information and Communication Technology was written to the African Union Commission nearly eight (8) months after ICANN had formally communicated its non-approval of the African Union’s request to have the .Africa TLD name reserved for it.



Based on all of the aforementioned fundamentals, **we rightly believe that the .Africa new gTLD bid submitted by UniForum ZA Central Registry has not been endorsed by the Namibian Government, despite that public claim that Uniform has done on various media.** <http://www.telecompaper.com/news/namibia-endorse-zacr-bid-for-africa-domain-name--911198> and <http://www.balancingact-africa.com/news/en/issue-no-633/web-and-mobile-conte/namibia-endorse-zac/en>

*Namibia's formal letter of support for South Africa's ZACR follows a Southern African Development Community (SADC) ICT ministers meeting held in Mauritius in November 2012, says ZACR.*

We have always maintained that the UniForum application is fraudulent, and we hereby assert that **passing off this type of letter as a valid Namibian Government endorsement for its bid is legally problematic and perhaps, fraudulent.**

The Namibian Government has simply expressed support for an AU position that was already denied by ICANN, and the communication does not in any way serve as an endorsement for the .Africa new gTLD bid that was submitted by UniForum ZA Central Registry.

Our contention that Dr. Eberhard Lisse has 'endorsed' UniForum is actually based on what we have gathered from his open antagonism towards DCA's application for .Africa, and his undisguised support for UniForum's application. Again, whichever way you look at it, we still maintain that such **'subjective support' does not really count as an official endorsement by the Namibian Government for UniForum's .Africa new gTLD application.**

This then brings us to the issue of accountability.

Now that we have exposed the fact that UniForum has no endorsement from the Namibian Government, we believe that **proper due process accountability will also show that UniForum ZA Central Registry has not obtained valid endorsements from many African country governments.** This calls into question the validity of the GAC Early Warning that was contrived against DCA's application by the 'representatives' of many African country governments who had gathered during the IGF in Bali, Azerbaijan to **'perform a cut and paste'** effort; as we have maintained in our official response to the ICANN GAC Early Warning notification.

Therefore, we hereby wish to reject the farcical notion that UniForum's application for .Africa gTLD has the support of many African country governments whilst DCA Trust's application for .Africa gTLD lacks the necessary support of African country governments. We stand ready to **legally substantiate** our position if there is proper due process accountability regarding the issue of governmental endorsement over .Africa.

***On the Issue of False (or Fake) Identity***



This matter has been adequately explained publicly and we have nothing else to add to it. The undersigned as a party named by Dr. Ben Fuller was the victim of unremitting hatred, and the target of a fierce and merciless campaign of animosity that was directed against her person within the AfrICANN discussion forum; her real name ID was blocked from participation on AfriCANN without any given cause, until a member protested on her behalf.

Therefore, in order to protect herself from the constant bombardment from many of her implacable opponents such as Dr. Eberhard Lisse, who also led (himself) some of those personal attacks and constant mockery/denigration against the undersigned and DCA's .Africa bid, was compelled to use an 'alternate identity' to engage in general discussions on the Forum, which more often than not also referred to the issue of .Africa.

**Dr. Fuller's statement that the intention was to garner support for the .Africa new gTLD bid is very incorrect.** DCA's .Africa application was the subject of repeated disparagement, and there was an important need by DCA Trust to closely and carefully monitor the discussions that were taking place on the AfrICANN emailing list and respond (as necessary) to certain negative comments from some contributors and balance the debate. **This could not be done in the name of 'Sophia Bekele', who was already the target of constant animus and insults;** for which reason a 'pseudonym' had to be used just to protect herself from the open hatred and diabolical mockery that she was being forced to relentlessly endure by Dr. Eberhard Lisse and his cohorts.

When the matter of 'fake identity' was raised, the undersigned readily admitted, explained herself, and even in a demonstration of honesty and humility, quickly apologized to the members of the AfrICANN Forum; and was readily forgiven when the Forum members discovered that there was really no issue to be fought over, particularly where it was no rules of engagement defined for the Forum participation. Only the .Africa opponents continue to make an issue out of it.

In our estimation, it is not a case that should now warrant the attention of ICANN leaders. Dr. Ben Fuller is simply trying to traduce by mentioning this issue in his unsolicited letter to ICANN.

### **Conclusion**

In closing, we wish to **reiterate that the issue of 'endorsement' as a criterion for .Africa new gTLD applications should not be relevant anymore** as we have already clearly suggested to ICANN as a way forward in a previous communication, since the process of obtaining African country government endorsements, as we have shown even in this matter of Namibia, has been greatly abused, and has also been associated with many irregularities and misrepresentations.

**Therefore, at the risk of over-stressing a point already made, the Government of Namibia Ministry of Information and Communication Technology had simply expressed support for an unsustainable position, to wit; agreeing with the unfortunate request that the .Africa gTLD name should be reserved by ICANN for the AU, an impossible request that ICANN has already denied more than one year ago.**



We believe that a fine distinction must be made and understood without any ambiguity **that an African country government agreeing with the AU's unsustainable position on .Africa does not legally constitute an endorsement for UniForum's application for the .Africa new gTLD.**

Moreover, **we do not accept any African country government's position which believes that the .Africa name string should be assigned based on the AUC's determination**, since our understanding is that every string assigned under the auspices of the globally-approved ICANN new gTLD program **is done at the determination of ICANN and not of any third-parties.**

We have consistently argued **both on legal and philosophical grounds that the roles, rights, privileges, responsibilities and governance authority of ICANN under the new gTLD program cannot be usurped.** Everyone must be subject to ICANN's determination as per new gTLD Program guidelines and stipulations.

Thanking you in anticipation of your kind cooperation and consideration.

Most respectfully yours,

*Bekele*

Ms. Sophia Bekele, B.S., M.B.A., C.I.S.A, C.C.S, CGEIT

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

cc: **Dr. Ben Fuller (Director) and Dr. Eberhard Lisse (Managing Partner),  
Namibian Network Information Centre (Pty.) Limited**  
Windhoek,  
Namibia

**Other ICANN Officials copied in this Communication:**

cc: Cherine Chalaby, Chair, New gTLD Program Committee  
cc: Heather Dryden, Chair, Government Advisory Committee  
cc: Christine Willett, General Manager, New gTLD Program  
cc: The Honorable Suzanne Sene, U.S. Representative to ICANN Government Advisory Committee  
cc: Dr. Olivier M.J. Crépin-Leblond, Chair, ICANN At Large Advisory Committee  
cc: Mandy Carver, Global Stakeholder Engagement Executive Director  
cc: Sally Costerton, Senior Advisor to the President — Global Stakeholder Engagement  
cc: John Jeffrey, ICANN General Counsel  
cc: Chris LaHatte, ICANN Ombudsman  
cc: Professor Alain Pellet, Independent Objector for the ICANN new gTLD Program  
cc: Dr.Tarek Kamel, ICANN Sr. Advisor to CEO (ICANN Africa Strategy)

# EXHIBIT D

## APPLICATION COMMENT DETAILS

Comment ID: 9jt5betb

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Background Screening

Subject: Manifest inconsistencies-Mission&Purpose

Comment Submission Date: 4 September 2012 at 15:53:12 UTC

Comment:

There are manifest inconsistencies in the answers provided to the community questions and the stated Mission & Purpose of their TLD application. In describing the Mission & Purpose of their proposed gTLD (Question 18), UniForum have noted: "The ZACR and its partners in Africa, representing governments, ccTLD administrators, the technical and user communities, share a collective vision of establishing and running a successful, African-based registry operation for the benefit and pride of Africa." Evidently, such a statement indicating a diverse community partnership cannot be reconciled with a blank answer to Question 20 (a). Interestingly, UniForum also provided blank answers to all the Community TLD-related questions.

The notes in Q18 of the Applicant's Guidebook states "An applicant wishing to designate this application as community-based should ensure that these responses are consistent with its responses for question 20 below." Thus, whilst the UniForum application is portrayed as 'community' in terms of its overall mission & purpose as per their answer to question 18, this is quite inconsistent with the answers that UniForum provided for Questions 19 and 20. These inconsistencies should be noted by the ICANN Evaluation.

The AU RFP document for the selection of a registry operator for DotAfrica (See <http://www.au.int/en/content/request-proposals-african-union-commission-operation-dot-africa>), states inter alia: "the winning bidder should bear in mind that: This is a geographical TLD which should be run on behalf of the community", and "Collaborate with the Internet community on the project" and "Lead the effort to create an active domain name community in Africa".

At the time the AU RFP was issued, DCA noted that a deliberate but illegitimate attempt was being made to take over a geographic TLD for use and ownership of a 'community'. We believe that by failing to make a community TLD application for .AFRICA, UniForum has deliberately falsified its intentions whilst trying to win the endorsement of the AU to support its .Africa application submitted to ICANN that masks the true mission and purpose of UniForum's applied-for gTLD string.

The above is buttressed by the fact that the description of the registration policies indicated in UniForum's application refers to a Policy Committee that will help to enforce certain restrictions that are somewhat of a community-nature on .AFRICA but without clearly designating the application as one for a Community TLD even though the AU has clearly stated that "the AU Commission selected UniForum SA (the ZA Central Registry Operator or ZACR) to administer and operate dotAfrica gTLD on behalf of the African community." It is patent that UniForum got the support of the AU for a Community TLD Application to operate the .AFRICA gTLD on behalf of the African

Community, but has deviated from this and made a standard application. We think UniForum has deliberately misled a large segment of the African Internet Community and the ccTLD managers (or organizations) that were used to obtain the support of individual African governments in this matter. We urge the ICANN Evaluation not to accept this deception.

Therefore, through deliberate misrepresentation and or falsification of intentions, UniForum have not made a truthful application for .AFRICA; and we believe this should be punished by the ICANN Evaluation through the outright failure of the application submitted by UniForum.



## APPLICATION COMMENT DETAILS

Comment ID: 5s3ut7ks

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Background Screening

Subject: Oversight Role to illegitimate Entity

Comment Submission Date: 4 September 2012 at 15:38:15 UTC

Comment:

UniForum's application for .AFRICA gTLD gives oversight responsibility to an entity that has not yet been established through the process of formal incorporation.

The published parts of the .AFRICA gTLD application submitted by UniForum states inter alia: "the Applicant, in consultation with Internet community representatives from all over Africa, at a meeting held in Johannesburg, established a Steering Committee to exercise moral and ethical oversight over the dotAfrica project. Representatives of the broader African Internet community are currently participating in the project through the SteerCom, which comprises African Internet experts, country code managers, registrars and others volunteers.

For a list of the SteerCom members refer to [www.AfricaInOneSpace.org](http://www.AfricaInOneSpace.org). The SteerCom is engaged under formal Terms of Reference, which include, amongst others, a mandate to identify the criteria and processes for the incorporation of a new non-profit organisation, namely the dotAfrica Foundation. The SteerCom is therefore the precursor to the dotAfrica Foundation, which will work closely with the Applicant in assuming the moral and ethical oversight of the dotAfrica TLD and the development of policy issues. The SteerCom will be dissolved once the Foundation is incorporated and established."

The above statements buttress our belief that UniForum's application for .AFRICA is being used to facilitate an application on behalf of an entity that has not yet been established through the process of formal incorporation. We strongly believe that this should not be allowed by the ICANN leadership and should be noted by the ICANN Evaluation for the purpose of rejecting UniForum's application for the .AFRICA gTLD which is actually a 'front' for a yet to be established organization.

It is easy for one to deduce that the application is being submitted by UniForum who have already signed an agreement with the African Union Commission that all the rights to the TLD and registry databases will be retained by the AU, including the right to re-designate the registry function; all in anticipation that a dotAfrica Foundation will be incorporated and established later, and the .AFRICA gTLD registry will be transferred from UniForum to this yet to be incorporated entity. We hereby strongly urge ICANN to act immediately and disqualify the .AFRICA application submitted by UniForum so that such illegitimate plans that are in clear violation of the stipulations of the new gTLD program will not be allowed to prevail.



## APPLICATION COMMENT DETAILS

Comment ID: rh1bc2ze

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Background Screening

Subject: Crooked Legal & Executive Responsibility

Comment Submission Date: 4 September 2012 at 15:33:44 UTC

### Comment:

The UniForum application grants Legal or Executive Responsibility to Mr. Mohammed El-Bashir who has no Legal Role or Executive Responsibility in UniForum.

In answer to Question no. 11(d) (For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility) the application for .AFRICA that was submitted by UniForum ZA CR indicates that Mr. Mohammed El-Bashir has Legal or Executive Responsibility over the gTLD application.

The web site URL of the UniForum application has been indicated (Question 5) as <http://www.AfricaInOneSpace.org>. Based on what the people associated with this application have publicly admitted to, we understand that Africa In One Space is not a legally registered entity, but simply a URL.

Mr. Mohammed El-Bashir is described as the Chairperson of the dotAfrica Steering Committee under the Africa In One Space web site, but this organ (Steering Committee) has no legal establishment. Question 11d is meant for applying entities without directors or officers, but UniForum clearly has directors as indicated in their answer to Question 11(a). (Name(s) and position(s) of all directors) which lists the names of the directors of UniForum as Calvin Scott Browne, Neil Duncan Dundas, Mark James Elkins, Theodorus Kramer and Fiona Jean Wallace.

Why should the Legal and Executive Responsibility for the UniForum .Africa application be given to somebody (Mohammed El Bashir) who simply represents a URL? What type of legal and executive responsibility would someone like Mohammed El Bashir, who appears to be acting on behalf of the African Internet Community, exercise over a non-Community TLD application for .Africa submitted by UniForum ZA Central Registry?

We think that granting legal or executive responsibility of UniForum's .AFRICA application to somebody who is obviously not a director of UniForum is a deliberate misrepresentation with the intention to obfuscate the true legal and or executive responsibility over the UniForum application for .AFRICA. Moreover, Mr. Mohammed El-Bashir has no legal or executive role in UniForum. He is neither a director nor a management executive of the organization, so we believe that mentioning him as the person having Legal or Executive Responsibility over the application for .AFRICA submitted by UniForum is not only misleading but legally incongruous and rather

problematic. The application already lists the directors of UniForum, so there is no legal basis for the same application to grant legal or executive authority to Mr. Mohammed El-Bashir who is not a director of UniForum.

Again, we believe that this is one way of giving the 'African Internet Community' and or so-called dotAfrica Steering Committee and/or Africa In One Space, illegitimate organs or bodies indicated in the URL <http://www.africainonespace.org> that have been constituted without any form of legal establishment, a community oversight role over the UniForum Application, but without actually designating the UniForum application as a Community TLD application.

Therefore, it is important for the ICANN Evaluation to understand that UniForum as applicant is being used as a 'front' to enable certain groups who have no proper legal establishment to accomplish their illegitimate ownership designs over the .AFRICA gTLD, and the application should be disqualified or failed by the ICANN Evaluation for this reason.

## APPLICATION COMMENT DETAILS

Comment ID: rvom6spc

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Geographic Names Evaluation Panel

Subject: The issue of UNIFORM Endorsement

Comment Submission Date: 4 September 2012 at 15:43:36 UTC

### Comment:

Regarding the issue of endorsement that resulted in the African Union Commission providing UniForum ZA Central Registry with a Letter of Appointment to enable it apply for the .Africa gTLD name, we urge the ICANN Evaluation to seriously look into this issue of endorsement of UniForum ZA Central Registry which might not be legally valid if viewed from the perspective of who has 'the rights' over the new gTLD.

As already mentioned in another public comment, UniForum ZA Central Registry acknowledged by signed written contract that "the AUC shall retain all the rights relating to the dotAfrica TLD, including in particular, intellectual property and other rights to the registry databases required to ensure the implementation of the agreement between the AUC and the ZACR, and the right to re-designate the registry function."

The fact that UniForum ZA Central Registry knowingly accepted this in apparent contravention of the new gTLD program guidelines in order to be appointed by the AU Commission as the registry operator for .Africa should constitute a significant factor in the determination process. The ICANN Evaluation should be aware that ZA Central Registry received the letter of appointment from the AU because they accepted that the AU shall retain all rights to the .Africa TLD.

Another issue related to endorsement is that they were appointed by the African Union Commission to apply on behalf of the African community, and therefore used this to garner community support. However, as already mentioned in another public comment, UniForum ZA Central Registry did not submit a Community TLD application for .Africa, which now makes their endorsement or appointment as registry operator by the African Union Commission, illegitimate after the fact.

## APPLICATION COMMENT DETAILS

Comment ID: qotzvnuo

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Geographic Names Evaluation Panel

Subject: Not an African Community application

Comment Submission Date: 4 September 2012 at 15:28:53 UTC

Comment:

UniForum has submitted a standard, non-Community Application for .AFRICA without applying on behalf of the 'African Community'.

A Communiqué released by the AU Commission not too long ago revealed that it had selected UniForum as the registry operator that would be applying for .AFRICA on behalf of the African Community. The Communiqué notes: "the AU Commission selected UniForum SA (the ZA Central Registry Operator or ZACR), to administer and operate dotAfrica gTLD on behalf of the African community." (See <http://www.au.int/en/sites/default/files/AUC-dotAfrica-Communique-.pdf>). However, following the ICANN publication of the list of applied-for strings and applicants, it was revealed that UniForum has not applied for a .AFRICA Community TLD but instead submitted a standard application for the geographic TLD. Their answer to Question 19 (Is the application for a community-based TLD?) indicates 'No'.

It is clear from this answer that the .Africa gTLD application submitted by UniForum ZA CR is not a Community TLD application. However, reading through their application, it is quite obvious that an attempt is being made to characterize it as the official African Community application that is sanctioned by the AU Commission, African governments and the African Internet Community. DCA believes that the application submitted by UniForum is an outright misrepresentation and fraud

One only needs to see the published parts of UniForum's application and their answers to Questions 19 and 20 to verify that UniForum deliberately failed to name any Community in their official answers to ICANN. We strongly urge the ICANN Evaluation to pay particular attention to this and fail them accordingly.

In their answer to Question 19 ("Is the application for a Community based TLD?"), they unequivocally stated "No". The question No. 20 (a) – (e) which immediately follows: (a) Provide the name and full description of the community that the applicant is committing serve; UniForum intentionally left it blank, thus indicating that they have not actually named any community that they claim to be committing to serve in their .Africa application.

According to the published parts of their application, all the key questions relating to a Community TLD have been blank (Nos. 19, 20 (a) – (e); meanwhile, they keep trying to identify their application as belonging to the African Community based on their presumed relationship with African Internet Community Organizations. We urge the ICANN Evaluation not to be fooled by this dishonest gimmick. If they have actually submitted an application on behalf of the African Community according to their putative, or rather specious, letter of support from

the AU Commission, then they should have been confident enough to truthfully answer question Nos. 19, 20 (a) – 20 (e), and reconciled same to their stated Mission & Purpose.

Therefore, their claim that they have the support of African country governments cannot be substantiated, since the African Governments have been misled to provide support for an African Community TLD application, but none was actually submitted to ICANN by UniForum based on the answers provided to above questions.

We believe that by not submitting a Community TLD application on behalf of the African Community, such letters of support from the AU or African Governments are no longer valid, and have become illegitimate after the fact.

## APPLICATION COMMENT DETAILS

Comment ID: stht4t9p

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Geographic Names Evaluation Panel

Subject: AU DotAfrica Taskforce Violated Ethics

Comment Submission Date: 17 September 2012 at 16:42:40 UTC

### Comment:

DCA Trust has made this comment to draw the attention of the ICANN Evaluation to the unethical role played by members of the African Union (AU) DotAfrica Task Force in the process of selecting UniForum as registry operator of .Africa by the AU Commission. Many members of the AU DotAfrica Task Force had an undeclared Conflict of Interest in the outcome of the .Africa endorsement process, and had participated in the AU process of selecting UniForum ZA Central Registry as registry operator and applicant for the .Africa gTLD on behalf of the African Community.

The ICANN Code of Conduct Guidelines for Panelists is specified in the Applicant's Guidebook (Section 2.4.3 and Sub-section 2.4.3.1 on 'Conflict of Interest') to help regulate their activities, and enable them avoid Conflict of Interest situations.

DCA believes that if the ICANN Code of Conduct standards were applied to the AU Task Force, its members would fall short of the standards. Even though their Conflict of Interest was quite apparent, this did not prevent them from performing their assignment in a manner that resulted in the AU's selection of UniForum as registry operator and applicant for the .Africa gTLD. We believe that the same ethical standards applicable to the ICANN Evaluation Panelists should also be applied to the AU Task Force on DotAfrica. We are quite confident that if their activities were subjected to the ICANN Code of Conduct guidelines, the members of the AU Task Force on DotAfrica would be in serious breach of ICANN's guidelines because of Conflict of Interest (COI).

DCA has always raised issues of legality and ethics against members of the AU Task Force on DotAfrica who were involved in both the EOI process and the RFP process that resulted in the appointment of UniForum ZA Central Registry as Registry Operator by the AU Commission. We believe that the members of the AU DotAfrica Task Force did not conduct themselves as impartial professionals.

The members of the AU DotAfrica Task Force are affiliated with organizations such as the AfTLD and AfriNIC, and these two organizations are in league with UniForum ZACR through Africa In One Space (See <http://www.africainonespace.org>).

The ICANN Evaluation should therefore be mindful of the serious breaches of ethics, and apparent COI involving members of the AU Task Force on DotAfrica, and their affiliated organizations, who all cooperated to support UniForum's .Africa application. Their open association with groups such as the AfTLD amply demonstrates that they lacked objectivity whilst carrying out their assignment on behalf of the AU. For example, the link between AfTLD and UniForum ZA Central Registry is quite obvious under the Africa In One Space initiative; and



members of the AU Task Force on DotAfrica had met in Ghana in April 2011 to give a Vote of Confidence to the AfTLD to enable it apply for the .Africa gTLD.

The ICANN Evaluation should not be neglectful of the fact that ICANN believes in promoting competition, but the members of the AU Task Force on DotAfrica had acted willfully to restrict competition, and by so doing actually prevented many prospective applicants from applying for .Africa gTLD. Therefore, this should be taken into serious consideration regarding the issue of endorsement for the 'Africa' geographic name, when scoring the UniForum application, because of the apparent COI of members of AU DotAfrica Task Force who had unfairly assisted UniForum under the AU process.

## APPLICATION COMMENT DETAILS

Comment ID: ilixeuk5

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Legal Rights Objection Ground

Subject: AU Cannot Re-designate Registry Function

Comment Submission Date: 4 September 2012 at 15:15:46 UTC

### Comment:

The Agreement between the African Union and UniForum grants the AU the right to re-designate the registry function of the .AFRICA gTLD String.

The published parts of the application for .AFRICA submitted by UniForum contains the following statement: "It should be noted that the AUC shall retain all rights relating to the dotAfrica TLD, including in particular, intellectual property and other rights to the registry databases required to ensure the implementation of the agreement between the AUC and the ZACR, and the right to re-designate the registry function". Our understanding is that the Agreement between AU Commission and UniForum grants AU the right to re-designate or re-delegate the registry function of the .AFRICA string. This implies that the AU expects to be able to appoint or re-designate the registry function of .AFRICA to another operator if it has all rights relating to the dotAfrica (.AFRICA) TLD coupled with the rights to the registry databases. We believe that these provisions in the agreement are a clear usurpation of the governance authority of ICANN under the new gTLD program. There is no specification within the Guidebook or the new gTLD Registry Agreement that gives this type of authority to re-delegate strings or re-designate registry functions to AU Commission. DCA's understanding is that after successful evaluation and other requirements such as pre-delegation testing, ICANN will approve the delegation of a successful application for a string for a 10-year period based on the new gTLD Registry Agreement to be signed between ICANN and a registry operator. Therefore, this agreement between a third-party such as the AU and UniForum ZACR that gives AU the right to re-delegate the string name or re-designate the registry function is a clear violation of the new gTLD program stipulations, and this should be noted and severely penalized by the ICANN Evaluation.

Moreover, we believe that such a contract agreement that grants the AU the right to re-delegate a string that it does not legitimately own or re-designate a registry function to another operator, is similar to the request made by the AU to include the .AFRICA name string and its representation in any other language in the List of Top-Level Reserved Names. We believe that if ICANN has already made it clear that the .AFRICA name string does not belong to the AU Commission, then the AU has no legal basis to retain all rights relating to the dotAfrica TLD and appoint a registry operator for it, assume the rights to the registry databases for .AFRICA, and the right to re-delegate the .AFRICA string or re-designate the registry function; all in violation of the new gTLD program guidelines and ICANN new gTLD Registry Agreement. We think that these issues are serious enough since they clearly attempt to undermine ICANN's legitimate authority over .AFRICA. We believe that it is in the global public interest to report these observations which are deliberate infractions that have been committed by UniForum ZACR and AU acting arbitrarily, and with impunity in open violation of the new gTLD program guidelines.

We firmly believe that the political and diplomatic influence exercised by the AU over African governments does not give it the legal rights to the dotAfrica (.AFRICA) TLD.

We therefore urge the ICANN Evaluation to note this comment which should be considered as grounds for the UniForum application for .Africa not to pass the ICANN Evaluation process.

## APPLICATION COMMENT DETAILS

Comment ID: ilixeuk5

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Legal Rights Objection Ground

Subject: AU Cannot Re-designate Registry Function

Comment Submission Date: 4 September 2012 at 15:15:46 UTC

### Comment:

The Agreement between the African Union and UniForum grants the AU the right to re-designate the registry function of the .AFRICA gTLD String.

The published parts of the application for .AFRICA submitted by UniForum contains the following statement: "It should be noted that the AUC shall retain all rights relating to the dotAfrica TLD, including in particular, intellectual property and other rights to the registry databases required to ensure the implementation of the agreement between the AUC and the ZACR, and the right to re-designate the registry function". Our understanding is that the Agreement between AU Commission and UniForum grants AU the right to re-designate or re-delegate the registry function of the .AFRICA string. This implies that the AU expects to be able to appoint or re-designate the registry function of .AFRICA to another operator if it has all rights relating to the dotAfrica (.AFRICA) TLD coupled with the rights to the registry databases. We believe that these provisions in the agreement are a clear usurpation of the governance authority of ICANN under the new gTLD program. There is no specification within the Guidebook or the new gTLD Registry Agreement that gives this type of authority to re-delegate strings or re-designate registry functions to AU Commission. DCA's understanding is that after successful evaluation and other requirements such as pre-delegation testing, ICANN will approve the delegation of a successful application for a string for a 10-year period based on the new gTLD Registry Agreement to be signed between ICANN and a registry operator. Therefore, this agreement between a third-party such as the AU and UniForum ZACR that gives AU the right to re-delegate the string name or re-designate the registry function is a clear violation of the new gTLD program stipulations, and this should be noted and severely penalized by the ICANN Evaluation.

Moreover, we believe that such a contract agreement that grants the AU the right to re-delegate a string that it does not legitimately own or re-designate a registry function to another operator, is similar to the request made by the AU to include the .AFRICA name string and its representation in any other language in the List of Top-Level Reserved Names. We believe that if ICANN has already made it clear that the .AFRICA name string does not belong to the AU Commission, then the AU has no legal basis to retain all rights relating to the dotAfrica TLD and appoint a registry operator for it, assume the rights to the registry databases for .AFRICA, and the right to re-delegate the .AFRICA string or re-designate the registry function; all in violation of the new gTLD program guidelines and ICANN new gTLD Registry Agreement. We think that these issues are serious enough since they clearly attempt to undermine ICANN's legitimate authority over .AFRICA. We believe that it is in the global public interest to report these observations which are deliberate infractions that have been committed by UniForum ZACR and AU acting arbitrarily, and with impunity in open violation of the new gTLD program guidelines.

We firmly believe that the political and diplomatic influence exercised by the AU over African governments does not give it the legal rights to the dotAfrica (.AFRICA) TLD.

We therefore urge the ICANN Evaluation to note this comment which should be considered as grounds for the UniForum application for .Africa not to pass the ICANN Evaluation process.

## APPLICATION COMMENT DETAILS

Comment ID: 6072uqe5

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Legal Rights Objection Ground

Subject: AU Cannot appoint Registry Operator

Comment Submission Date: 4 September 2012 at 15:01:58 UTC

### Comment:

The African Union's role in selecting a registry operator for .AFRICA directly usurps the role of ICANN, and this is directly against the objectives of the new gTLD Program and the UniForum application must be penalized accordingly by the ICANN Evaluation.

We may recall that the AU had requested the ICANN Board to include the .Africa, .Afrique, .Afrikia (and .Africa in Arabic script), name string and its representation in any other language within the Reserved Names List in order to enjoy the level of special legislative protection, to be managed and operated by the structure that is selected and identified by the African Union"; an extraordinary request that was refused by the ICANN Board because it was contrary to the stipulations of the new gTLD Applicant's Guidebook.

In our estimation, the official response to the AU request by ICANN dated 8 March 2012 and signed by Dr. Stephen D. Crocker, Chairman of the ICANN Board, implied that the .AFRICA namespace as an Internet gTLD resource did not belong rightfully to the AU. In spite of this, the AU Commission had gone ahead to appoint UniForum ZA Central Registry as the Registry Operator for the DotAfrica (.AFRICA) gTLD.

We believe that this action of appointing a registry operator for DotAfrica (.AFRICA) gTLD by the AU is a major infraction. Nearly five (5) months ago, DCA had commented in an open press briefing titled 'UniForum S.A. and African Union Should beware of any Irregularities over DotAfrica' that "if it is generally accepted that the DotAfrica gTLD does not belong to the African Union (AU) but to the Internet Corporation for Assigned Names and Numbers (ICANN), how could the AU legitimately select a registry operator for a gTLD that it does not own?" DCA Trust now expects that this question needs to be urgently answered both by ICANN leaders and by the ICANN Evaluation in order that the eventual fate of .AFRICA gTLD can be transparently and rightfully determined in the global public interest.

According to the Applicant's Guidebook only ICANN has the right under the new gTLD program to approve a registry operator for any applied-for gTLD based on the technical, operational and financial criteria spelt out in the new gTLD program Guidelines. The AU Commission has no authority in this regard, and whatever they have done in appointing a registry operator for .AFRICA is illegitimate since it usurps ICANN's legitimate authority under the new gTLD Registry Agreement. As per Article 1 (Delegation and Operation of Top-Level Domain: Representations and Warranties) only ICANN can designate a 'Registry Operator' for any TLD.

We believe such an appointment of a registry operator for .AFRICA by the AU contravenes all the stipulations of the new gTLD Registry Agreement since the AU as a third-party has no role nor responsibility to determine or approve a registry operator under a separate

process that has not taken into consideration ICANN's approved and mandatory criteria for technical, operational and financial evaluation of new gTLD applications.

## APPLICATION COMMENT DETAILS

Comment ID: qlk027

Name: DotConnectAfrica

Affiliation: DotConnectAfrica Trust

Applicant: ZA Central Registry NPC trading as Registry.Africa

String: AFRICA

Application ID: 1-1243-89583

Panel/Objection Ground: Financial Capability Evaluation Panel

Subject: On Unit Selling Price of Domain Names

Comment Submission Date: 1 September 2012 at 19:51:32 UTC

Comment:

PUBLIC COMMENTS FOR THE ICANN FINANCIAL EVALUATION PANEL ON THE APPLICATION SUBMITTED BY UNIFORM ZA CENTRAL REGISTRY FOR THE

.AFRICA GENERIC TOP-LEVEL DOMAIN NAME

COMMENTS SUBMITTED BY DOTCONNECTAFRICA TRUST

On Unit Selling Price of Domain Names

We note from the published parts of UniForum's application that they have proposed a unit domain name selling price of US\$18.00.

Recent reports in the media by somebody who is associated with the UniForum application quoted him saying: "we are working on a table of 10 to 18 dollars" (Please see <http://www.agenceecofin.com/internet/2908-6443-10-dollars-pour-acquerir-le-dotafrika-a-partir-de-2013>).

In the UniForum ZA Central Registry application for the .Africa new gTLD, they have unequivocally stated that "Initial registration fees are estimated to be in the region of US\$18 per year." In its submitted application, DCA has indicated a unit domain name registration price of US\$10.00 per year.

However, the above statement which purports that they are working on a "table of 10 to 18 dollars" clearly shows that UniForum is probably considering a downward revision to their stated domain name selling price in order for it to be more competitive.

DCA Trust believes that this is clearly against the rules of fair competition, and that the ICANN Financial Evaluation should not allow UniForum to amend the unit domain name registration price and revise it downwards to US\$10.00 in order for their unit domain name registration price to be more in line with what DCA Trust has stated in its application. Amending the unit selling price has implications for the Financial Projection Models, and completed projection templates, which no doubt will affect the content of the entire Financial Proposal and the financial models already developed and submitted as part of their .Africa new gTLD application.



We therefore urge the ICANN Financial Evaluation not to allow UniForum to amend any aspect of their Financial Proposal, especially the unit domain name registration price. Should they attempt to submit revised unit domain name selling price and revised domain name financial projection figures, they should be failed on the relevant Financial Evaluation Criteria.

# EXHIBIT E



Dr. Stephen Crocker  
The Chairman of the Board  
**Internet Corporation for Assigned Names and Numbers (ICANN)**  
Los Angeles, California  
United States of America

Dear Chairman Stephen Crocker,

**Subject: *A Note to ICANN following the DCA vs. ICANN IRP Panel Ruling***

DotConnectAfrica Trust (DCA Trust) has observed the events and announcements by ICANN during of the past few days since the DCA vs. ICANN IRP ruling on July 9, 2015; and in light of letters that have been written by ZACR and the African Union Commission to ICANN, DCA Trust, as a directly affected party, is now compelled to write to ICANN, and hereby wish to communicate as follows:

1. DotConnectAfrica Trust has prevailed in the IRP against ICANN. The IRP Panel has ruled that ICANN violated its Bylaws and Articles of Incorporation; and has therefore declared ***“that both the actions and inactions of the Board with respect to the application of DCA Trust relating to the .AFRICA gTLD were inconsistent with the Articles of Incorporation and Bylaws of ICANN”<sup>1</sup>***.
2. The fact that ICANN has been adjudged thus by a duly authorized juridical process that is empowered by ICANN’s accountability mechanism is a clear evidence of wrongdoing on the part of ICANN. In other words, ICANN could not have violated its Bylaws and Articles of Incorporation if the organization (or the ICANN Board, ICANN GAC and/or ICANN Staff) had been acting correctly and legitimately in the matter of .Africa new gTLD.
3. DCA Trust believes that wrongdoing on the part of ICANN has directly caused DCA Trust to suffer harm and injuries.
4. We think that these harms and injuries must be fully redressed by ICANN for accountability to have any meaning.
5. Prior to the IRP ruling, ICANN’s lawyer had argued in arguments presented to the IRP Panel that the ICANN Board should have the responsibility of ‘fashioning’ a remedy. The IRP Panel however agreed with the arguments presented by DCA Trust that the IRP Panel has the authority to recommend how the ICANN Board might fashion a remedy to redress injury or harm that is directly

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<sup>1</sup> Cf. No. 148 on page 61 of IRP Final Declaration

related and causally connected to the Board's violation of the Bylaws or the Articles of Incorporation.<sup>2</sup>

6. Even though we clarified the duties and scope of responsibilities of the IRP Panel, we think that any such corrective action that may be embarked upon by the ICANN Board should as a matter of course and remediation, also take into consideration the imperative to protect DCA Trust's rights and privileges as the prevailing party in the IRP, against the backdrop that ICANN's evident wrongdoing has materially harmed and injured DotConnectAfrica Trust.

7. We have read the letter written by ZACR to ICANN ([ZACR Response on the Independent Review Process \(IRP\) Final Declaration](#)), and feel that they lack the *bona fides* to even make such a presentation to ICANN at this stage – Post-IRP. ZACR has simply presented a tendentious opinion to the ICANN Board that is meant to serve only ZACR's interest in this matter.

8. We wish to recall that ZACR and the AUC had written a letter to the IRP Panel through the law firm of Bowman Gilfillan asking to be permitted to attend and participate in the IRP Hearing. That request was rejected by the IRP Panel for obvious reasons. We therefore find it very strange and, again, most irregular, that ICANN has now invited ZACR to send their 'opinion' to ICANN regarding an IRP decision that was taken by the same IRP Panel that had earlier refused ZACR's request to attend the IRP hearing. We are quite convinced that ZACR is now being allowed by ICANN to 'dictate' to the ICANN Board on how things should proceed following the IRP ruling.

9. Our understanding is that ZACR should be removed immediately from the ICANN new gTLD Program. The fact that ICANN was delegating the .Africa new gTLD to ZACR at a time that ICANN was also violating its Bylaws and Articles of Incorporation indicates that ICANN did not delegate the .Africa new gTLD to ZACR legitimately, since ICANN could not have been acting correctly and lawfully at the same time that it was engaging in actions that led it to break its Bylaws and Articles of Incorporation.

10. Therefore, ICANN's delegation of .Africa to ZACR is a nullity, and any juridical proceeding or examination will reach the same understanding.

11. Since the IRP Panel has already ruled that ICANN should continue to refrain from delegating .Africa to ZACR, we believe that such an injunction/restriction (or restraining order) on ICANN should remain permanent, since ZACR should not be the beneficiary of ICANN's evident wrongdoing. Moreover, if ICANN was complicit in a wrongful award of the .Africa string to ZACR, the only corrective measure is permanent rescinding of such a wrongful award that ICANN made to ZACR after a Notice of IRP had (already) been filed by DCA Trust.

12. Regarding the measures that you have announced to resolve the issue of .Africa post DCA vs. ICANN IRP, we believe that ICANN has already mismanaged the process, and these actions are no longer acceptable to DCA Trust.

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<sup>2</sup> Cf. No. 128 and No. 129 on page 56 – 57 of IRP Final Declaration

13. We think that the action by the ICANN Global Domains Division to ask the opinion<sup>3</sup> of ZACR on the IRP Declaration is wrongful and most irregular. The [ICANN Bylaws](#) specify that *“where feasible, the Board shall consider the IRP Panel declaration at the Board’s next meeting”*<sup>4</sup>. We find it quite extraordinary that the opinion of ZACR was sought prior to the ICANN Board meeting – which would invariably cause the Board consideration of the IRP Panel declaration to be influenced by ZACR’s opinion.

14. We now believe that the matter is being rushed. From a close reading of the announcement, DCA Trust understood from certain statements attributed to the ICANN Counsel and Board Secretary Attorney John Jeffrey<sup>5</sup> that the ICANN Board will meet on July 28 ([See ICANN announcement of July 10, 2015](#)). We now gather that ICANN is fast-tracking the entire process, for no reason other than reacting to ‘external pressures’ which caused ICANN to convene a ‘special meeting’ on July 16, 2015. We think that such evident haste would cause the process to lack thoroughness and deliberation, the same type of methods that caused the ICANN Board NGPC to take a summary and wrongful decision on DCA Trusts’ application for .Africa.<sup>6</sup>

15. We disagree with the present attempts by the ICANN Board based on its [Resolution 2015.07.16.04](#) to send the issue back to the Governmental Advisory Committee to enable the ICANN GAC body *“refine that GAC Advice and/or provide the Board with further information regarding that advice and/or otherwise address the concerns raised in the Declaration”* ([See ICANN announcement of July 16, 2015](#)); which would wittingly give DCA’s competitors an opportunity to muster a new threat of Community Objection or GAC Objection Advice against DCA’s application.

16. We would like to remind ICANN that the strategic push by DCA’s competitors to administer or achieve a *coup de grâce*<sup>7</sup> against DCA Trust’s aspirations for .Africa new gTLD - can be readily traced to events that happened prior to the ICANN-42 international meeting in Dakar, Senegal in October 2011. At Dakar, there was an orchestrated attempt (as part of the ‘African Agenda’) to achieve a reservation of the .Africa name string - and its representation in other languages - in the

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<sup>3</sup> According to ZACR’s letter of July 15, 2015, ZACR had received a correspondence (dated July 13, 2015) from Mr. Akram Atallah (President of Global Domains Division, ICANN), inviting ZACR to submit its views on the IRP Declaration.

<sup>4</sup> See [Article IV: Accountability and Review – Section 3: Independent Review of Board Actions](#); No. 21

<sup>5</sup> The ICANN announcement specifically mentioned *inter alia*: **“Consistent with ICANN’s Bylaws, ICANN will carefully review the panel’s declaration and the ICANN Board will be asked to consider the matter at its next meeting on 28 July 2015,” said John Jeffrey, ICANN’s General Counsel and Secretary’.**

<sup>6</sup> Please see letter by DCA Trust for Reconsideration of ICANN NGPC Decision on GAC Advice 14th June 2013 which is available at: <https://www.icann.org/en/system/files/files/bekele-to-icann-ceo-14jun13-en.pdf>.) We specifically wish to refer to Item #vi. On page 2 of our letter where we had noted *inter alia*: **“We think that the decision was taken with undue haste, and this has led to the obvious lack of conscientiousness. For example, according to the published updates (Re: ‘NGPC Progress on GAC Advice’), the ICANN Public Announcement on May 10 2013 conveyed the notion that ‘Part 2 of the Plan’ – that is, the “actions for responding to each advice given by the GAC - is not yet finalized and, with respect to some of the advice, cannot be finalized until after the review of the Public Comments due to be completed on 20 June”. We note that the Board action on the GAC Advice relating to our application was taken on June 4, 2013; more than 2 weeks ahead of the anticipated completion date.”**

<sup>7</sup> Please see direct reference to *coup de grâce* as presented in ZACR’s most recent letter to you. ZACR’s opinion is that “consensus GAC Advice would ordinarily have constituted the “*coup de grâce*” for DCA’s application. See No. 40 on page 8 of ZACR’s letter.

List of Top Level Reserved Names List. This attempt was successfully defeated largely on account of DCA's strong opposition to the idea of including the .Africa name in the Reserved Names List; which would have enabled the African Union Commission to benefit from a special legislative protection, so that the domain name can be managed and operated by the structure that is selected and identified by the African Union. ICANN could not therefore approve the AUC's request in violation of stipulated new gTLD Program guidelines.

17. We also recall that [ICANN had written a letter to the AUC on March 8, 2012](#) (under your signature) with certain prescriptions ('Response to African Union Communiqué') which clearly advised the AUC to utilize the Community Objection procedure and the GAC Policy Advice route to enable the AUC "to play a prominent role" in determining the delegation outcome of the .Africa domain name under the ICANN new gTLD Program.

18. DCA recalls that it successfully defended itself against the threat of Community Objection that was brought upon by the Independent Objector of the ICANN new gTLD Program.

19. DCA Trust also recalls that a GAC Objection Advice was procured against DCA Trust's application – and how that GAC Objection Advice was handled (or mishandled) and processed by the ICANN Board NGPC, eventually led to the IRP Proceeding which ICANN lost according to the recent IRP ruling.

20. DCA Trust understands that various strategic efforts and tactical machinations that had been contrived to derail its .Africa application have so far failed. It is our considered view that any fresh plans for Community Objection and GAC Objection Advice can no longer be realized post-DCA vs. ICANN IRP under the new gTLD Program for the reason that the time allowed for such efforts have already passed, and in any case, the Community Objection and GAC Objection Advice hurdles have already been scaled, and have therefore been largely overtaken by events.

21. DCA Trust believes that ICANN would not be acting justly if the ICANN GAC is given a fresh opportunity to either refine a GAC Objection Advice that has already been criticized (because of its doubtful validity<sup>8</sup>) by an IRP Panel; or allow renewed efforts to be mobilized by DCA's competitors to orchestrate another Community Objection against DCA's application. For emphasis, we strongly believe that such Community Objection and GAC Objection Advice avenues have already been foreclosed. Therefore, we fault the insinuation contained in [ICANN Board Resolution of July 16, 2015](#), namely: "***Parties affected by these resolutions have had, and may continue to have, the ability to challenge or otherwise question DCA's application through the evaluation and other processes.***"<sup>9</sup>

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<sup>8</sup> Cf. No. 113 on page 53 of Final IRP Declaration. The IRP Panel averred that the ICANN Board did not investigate the matter further before rejecting DCA Trust's application for .Africa new gTLD. Based on the facts that DCA Trust had presented, we think that a proper investigation would have possibly led the ICANN Board to remain dubious about the GAC Objection Advice that was issued against DCA Trust's application for .Africa new gTLD.

<sup>9</sup> See <https://www.icann.org/resources/board-material/resolutions-2015-07-16-en>

22. DCA has already overcome these obstacles, and we would not accept new, after-the-fact measures that would deliberately re-introduce the same obstacles that we have already overcome in the past.

23. Therefore, we believe that ICANN has grossly erred by seeking the opinion of ZACR. We understand that ICANN's process post-IRP is no longer independent, to the extent that ICANN's proposed methods also include the opinions that have been presented by ZACR evidently "to assist the ICANN Board in their deliberations".

24. To the extent that ICANN has not put in place proper safeguards to ensure that any re-evaluation would be free and fair; impartial and non-discriminatory towards DCA Trust, we do not accept that any proposed evaluation process would be credible. ICANN has not conducted any 'house-cleaning' to engender renewed confidence in the process.

25. We also think that the AUC's opinion and concluding statement in Dr. Ibrahim's letter to you (Re: [Independent Review Panel \(IRP\) Recommendation on the matter between DCA and ICANN related to Dot Africa gTLD](#)) – that the (supposed) ***“Initial Evaluation of DCA’s application will provide much needed clarity and closure”*** – is indeed prejudicial to the prospects of DCA Trust's application. Again, this thoroughly demonstrates that ICANN's views on the subject have already been seriously affected, and no doubt hugely influenced by the views of the African Union Commission. We believe that ICANN is no longer acting independently since it is now acting based on the opinions that have been outlined for it by both ZACR and the AUC.

26. Going forward, post- IRP final ruling, we now expect the African Union Commission to remain non-partisan, and adopt a statesman-like role in these matters, since the pre-eminent Pan-African Inter-governmental Organization cannot be associated with an application (ZACR's) that was incorrectly delegated to an applicant at a time that ICANN was also guilty of many wrongful and illegitimate actions – which then led the IRP Panel to rule that ICANN has broken its Bylaws and Articles of Incorporation. The AUC cannot be complicit in that. Therefore, we think that the AUC must now dissociate itself completely from the ZACR application.

27. The Panel has ruled that DCA application should be allowed to continue to the end of the process.

28. Thus, there should be no further connotation beyond what has been directly and unambiguously conveyed in the IRP Panel ruling that DCA Trust's application should be allowed to continue to the end<sup>10</sup>.

29. DCA Trust had met all the requirements of the application including for the Geographic Names Panel before its work was interfered with. In our answer to the relevant evaluation question, we had presented the evidence of DCA Trust's endorsement for the .Africa string by the United Nations Economic Commission for Africa (UNECA). That endorsement was valid as at the time DCA Trust

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<sup>10</sup> Cf. "133. Pursuant to Article IV, Section 3, paragraph 11 (d) of ICANN's Bylaws, therefore, the Panel recommends that ICANN continue to refrain from delegating the .AFRICA gTLD and permit DCA Trust's application to proceed through the remainder of the new gTLD application process." See page of IRP Final Declaration

submitted its application, and to the extent that DCA Trust never received any clarifying question is that regard, we understand that our UNECA endorsement was accepted as valid by the Geographic Names Panel (GNP) evaluation.

30. Summing up, we wish to stress our position post DCA vs. ICANN IRP ruling:

- ICANN should immediately remove the ZACR application from the new gTLD Program, as per the reason already adduced.
- ICANN should compensate DCA Trust for injuries and harms suffered as a result of ICANN's violations of its Bylaws and Articles of Incorporation which materially affected DCA Trust.
- A Joint Cooperative Framework should be immediately established between DCA Trust and ICANN to enable us reach common ground on .Africa going forward, and resolve differences if any.
- DCA Trust's application should be permitted by ICANN to proceed through the remainder of the new gTLD application process with a view to delegating the .Africa string to DCA Trust based on its application that has already satisfied all evaluation criteria.
- DCA Trust should be allowed to reach mutual accommodation with the AUC regarding .Africa new gTLD.
- If ICANN is not willing to do what we have indicated, then we think that there is a difference of opinion, and the dispute should be resolved through another juridical process or direct negotiations between DCA Trust and ICANN.

Since we cannot work with ICANN under a cloud of distrust and antagonism, evident hostility by competitors, and unfair/discriminatory practices against DCA Trust by ICANN, we would prefer to explore cooperative mechanisms with guaranteed redress so as to achieve a successful resolution of this issue between DCA and ICANN within the shortest possible time.

Accordingly, we would like to receive your official response to this communication by July 28, 2015.

Thanking you in anticipation of your kind and positive cooperation in this and related matters.

Respectfully yours,  
For: DotConnectAfrica Trust

*Sbekele*

Sophia Bekele  
Executive Director/CEO

cc: Mr. Fadi Chehade, President/CEO, Internet Corporation for Assigned Names and Numbers (ICANN)



# EXHIBIT F



October 14, 2015

Dr. Stephen D. Crocker  
The Chairman of the Board  
**Internet Corporation for Assigned Names and Numbers (ICANN)**  
Los Angeles  
California  
United States of America

Copy to: **Mr. Thomas Schneider, Chair, ICANN Governmental Advisory Committee**

Dear Chairman Stephen Crocker,

**Subject: DotConnectAfrica Trust (DCA) v. ICANN Independent Review Process (IRP) Proceedings – Matters Arising**

The attention of DotConnectAfrica Trust (DCA Trust) has been drawn to [a letter that you have sent on behalf of the ICANN Board to the Chairman of the ICANN Governmental Advisory Committee](#) (GAC), Dr. Thomas Schneider, on issues that appertain to DCA Trusts' .Africa new gTLD application, on 29 September 2015

The purpose of your letter is to request the ICANN GAC to clarify, or refine the earlier GAC Objection Advice that had been previously issued in April 2013 against DCA Trust's .Africa application. As a directly affected party, DCA Trust is now compelled to write to the ICANN Board, to convey its serious concerns on this matter.

You may recall that DCA Trust had sent you a letter dated July 17, 2015 in which we **not only stated our official position on the Post-IRP issues, but also expressed our disagreement with the Post-IRP engagement process which includes amongst other things further ICANN Board-ICANN GAC interactions on DCA Trust's .Africa application.** We emphasized that the process which the ICANN Board had instituted to resolve this matter was profoundly flawed to the extent that there is still no guaranteed redress for wrongdoing DCA Trust even though ICANN lost the IRP.

Item No 14 of our earlier letter to you reads as follows:

*"We disagree with the present attempts by the ICANN Board based on its [Resolution 2015.07.16.04](#) to send the issue back to the Governmental Advisory Committee to enable the ICANN GAC body **"refine that GAC Advice and/or provide the Board with further information regarding that advice and/or otherwise address the concerns raised in the Declaration"** ([See ICANN announcement of July 16, 2015](#)); which would wittingly give DCA's competitors an opportunity to muster a new threat of Community Objection or GAC Objection Advice against DCA's application.*

We are therefore surprised that the ICANN Board has now gone ahead to implement these same steps that we have previously disagreed post-IRP.

Your letter to the ICANN GAC Chairman Mr. Schneider has emphasized four points, namely:

- i. GAC did not act with transparency or in a manner to insure fairness (Declaration 102).*
- ii. The GAC did not provide a rationale for the consensus objection (Declaration 104, 110)*
- iii. DCA Trust was not given any notice or an opportunity to make its position known or defend its own interests before the GAC reached consensus advice (Declaration 109)*
- iv. The GAC reached advice without any discussion of the substance behind the reasons for each country's objections (Declaration 110).*

Based on the above four points, you had then asked the GAC to consider refining its advice concerning DCA's application for .Africa, and/or provide the board with further information regarding that advice and/or otherwise address the concerns raised in the Declaration.

Your letter to the GAC seems to convey the notion that the failures of the ICANN GAC necessarily caused the ICANN Board to lose the IRP against DCA Trust. We wish to disagree with such assumptions. DCA Trust instituted an IRP against ICANN in order to challenge the wrongful decisions that had been taken by the ICANN Board against DCA Trust's .Africa application. We did not institute an IRP against the ICANN GAC.

Even though you had cited different declarations in your letter to the ICANN GAC Chairman, the main declaration of the IRP Panel is: ***"that both the actions and inactions of the Board with respect to the application of DCA Trust relating to the .AFRICA gTLD were inconsistent with the Articles of Incorporation and Bylaws of ICANN"***<sup>1</sup>.

We therefore think that if the ICANN Board accepts its responsibility in this matter, then it can rightfully provide the type of adequate redress that DCA Trust believes it is entitled to as the prevailing party in the IRP. **We believe that the ICANN Board can act without involving the ICANN GAC in this process.**

You may recall that DCA Trust had submitted a detailed and well-argued response to the GAC Objection Advice for the ICANN Board to consider before a decision was taken. Notwithstanding, the ICANN Board had taken a summary decision to deny our application without giving any thorough consideration to the pertinent issues that we had articulated and presented in our GAC Advice Response. Another fault that we identified on the part of the ICANN Board was the failure to send our GAC Advice Response to an independent third-party expert for review as per the Applicant Guidebook stipulations. **As a matter of fact, the ICANN Board, in accepting the GAC Advice and resolving not to approve DCA Trust's .Africa application, had decided that its position was consistent with the position of the GAC.** We therefore think that the implications of wrongful actions/inactions that emanated from wrongful decision-making should be on the ICANN Board and not on the ICANN GAC. We went to IRP because of the ICANN Board actions and inactions against our application and we prevailed.

Consequently, we believe that the ICANN GAC should not be made the scapegoat for any wrong and inequitable decision that was previously taken by the ICANN Board. On this major pivot therefore, we think that the ICANN Board is presently trying to shift blame and abdicate its responsibilities on this matter by choosing to take DCA Trust's .Africa application back to the ICANN GAC – to pose further challenges to our application.

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<sup>1</sup> Cf. No. 148 on page 61 of IRP Final Declaration

So far, DCA Trust has suffered many harms and injuries that are directly related and causally connected to the ICANN Board's violation of the Bylaws or the Articles of Incorporation.<sup>2</sup> **The course of remediation that has been embarked upon by the ICANN Board since the IRP was decided by the Panel has failed to consider the vital need and importance of protecting DCA Trust's rights and privileges as the prevailing party in the IRP, even though it is quite evident that the ICANN Board's evident wrongdoing has materially harmed and injured DCA Trust.** Therefore, we do not think that taking our application back to the GAC will address the injustice that DCA Trust suffered because of ICANN Board violations.

Accordingly, we wish to emphasize that we completely disapprove of the two-pronged strategy that has been designed by the ICANN Board to deny our .Africa application: based on obstacles that have been placed against the resumed GNP evaluation of our application; and sending back our application to the GAC. The intentions of the ICANN Board are clearly demonstrated in Resolution No. 2015.07.16.05 which states inter alia:

***Resolved (2015.07.16.05), in the event that DCA's application for .AFRICA successfully passes the remainder of the evaluation process, at that time or before, the Board will consider any further advice or information received from the GAC, and proceed as necessary, balancing all of the relevant information and circumstances.***

Another provision in the [ICANN Board Resolution of July 16, 2015](#), that we disagreed with is:

***"Parties affected by these resolutions have had, and may continue to have, the ability to challenge or otherwise question DCA's application through the evaluation and other processes."***<sup>3</sup>

When put side by side with Resolution No. 2015.07.16.05 this also reveals without any shadow of doubt, that the ICANN Board is already acting in concert with our competitors to ensure that our application will fail the resumed GNP evaluation; or, in the event that our application passes the resumed evaluation, to use the GAC process to create further difficulties to ensure that our application is unsuccessful.

As we have stated in an earlier communication to you, this method that you have chosen to implement following the Final IRP Declaration, opens the way for our competitors to pose further challenges against our .Africa application. **Therefore, we think that this two-pronged pre-meditated strategy is quite unfair, unjust and inequitable, and does not in any way demonstrate good faith on the part of ICANN.** This would also constitute further violations by the ICANN Board of the principles enshrined in the Bylaws and Articles of Incorporation of ICANN.

You are also most probably aware [the letter that was sent by the AUC Commissioner for Infrastructure and Energy to the ICANN Geographic Names Panel](#). Even though we see this as inappropriate interference on the work of the ICANN GNP by the AUC Infrastructure and Energy Department, **we also think that the actions that have been taken by the ICANN Board since the Final IRP Declaration was issued has enabled our competitors to challenge the DCA Trust .Africa application through the evaluation in violation of the rules – since there is no provision in the new gTLD Applicant Guidebook for this type of exercise.**

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<sup>2</sup> Cf. No. 128 and No. 129 on page 56 – 57 of IRP Final Declaration

<sup>3</sup> See <https://www.icann.org/resources/board-material/resolutions-2015-07-16-en>

## Risk of Further Irregularities

We think that sending the DCA Trust application file back to the GAC would create room for irregularities to occur, like what happened during the last episode.

For example, the last GAC Objection Advice that was procured against DCA Trust's .Africa application with the involvement of certain people whose **GAC Accreditation was no longer regular at the time of the ICANN Beijing Meeting**. DCA Trust has always maintained even in its GAC Advice Response that the role played by Ms. Alice Munyua in the procurement of that GAC Objection Advice will always leave a question mark on those proceedings. It is a well known fact that Ms. Munyua's GAC tenure as Representative of Kenya had ended at the ICANN Toronto GAC Meeting in the Fall of 2012, but she attended the ICANN Beijing GAC meeting during the Spring of 2013 – at a time that new GAC Advisors and GAC Representatives had already been appointed for Kenya – and as such Ms. Munyua no longer had any formal GAC accreditation; but had been allowed to attend and actively participate in the process to push for GAC Objection Advice against DCA Trust's application. It is also a well-known fact that Ms. Alice Munyua is a Board Auxiliary of the ZA Central Registry, and she is also a Consultant to the AUC Infrastructure and Energy Division. In a nutshell, a GAC Objection Advice was contrived against DCA Trust's application by a competitor – who not only sits on the ZACR Board on matters of .Africa; but also attended a GAC Meeting without proper accreditation to help achieve a pre-meditated objective against a competing application.

## Conclusion

As far as we are concerned, this invitation to the GAC to refine/clarify and provide further information on our application is to re-open an issue that we have already overcome. Therefore, the new moves are designed to reintroduce additional obstacles on the path of our application.

There is no provision in the new gTLD Guidebook for this extraordinary approach that you have commenced. **The new GTLD Program is a structured process that is based on a fixed time table. The time for GAC Advice and Objections on applications has already passed.** Therefore, the process that the ICANN Board has commenced with the ICANN GAC is quite irregular and will cause further violations of policy and existing governing/legal instruments (Bylaws, Articles of Incorporation, etc.).

We think that the entire process is highly prejudiced and will not resolve this matter, but would rather create further complications over .Africa new gTLD.

We therefore request you to use your good offices to stop any further engagements that you have started with the ICANN GAC regarding our .Africa new gTLD application.

Thanking you in anticipation of your kind and positive cooperation in this and related matters.

Respectfully yours,

*Sbekele*

Sophia Bekele  
Executive Director/CEO  
DotConnectAfrica Trust  
Application ID: 1-1165-42560

cc: Mr. Fadi Chehadé, President/CEO, Internet Corporation for Assigned Names and Numbers (ICANN)

# EXHIBIT G



**October 13<sup>th</sup> 2015**

**Director of the New gTLD Program**

Internet Corporation for Assigned Names and Numbers (ICANN)

**Geographic Names Panel**

Internet Corporation for Assigned Names and Numbers (ICANN)

**Committee Chair**

ICANN Board New gTLD Program Committee (NGPC)

Internet Corporation for Assigned Names and Numbers (ICANN)

**Dr. Stephen Crocker**

Chairman of the Board

Internet Corporation for Assigned Names and Numbers (ICANN)

**Chairperson of the Governmental Advisory Committee**

Internet Corporation for Assigned Names and Numbers (ICANN)

Los Angeles

USA

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Dear Sir/Madam,

**Subject: *DotConnectAfrica Trust's Reaction & Response to the AUC Commissioner for Infrastructure and Energy Letter to the ICANN Geographic Names Panel***

The attention of DotConnectAfrica Trust (DCA Trust) has been drawn to a [letter that was written by Dr. Elham Ibrahim](#), the African Union Commissioner for Infrastructure and Energy to the ICANN Geographic Names Panel (GNP). As a directly affected party, we hereby write to convey our official reaction to this letter that was sent to the ICANN GNP.

Our presentation is in **two parts**. The first part relates to our general response to the Commissioner's letter; whilst the second part deals with specific issues that have been referred to in her letter.

# Part I

## Introduction and General Comments

Our general comments in response to the AUC letter that was sent to the ICANN GNP are as follows:

1. We think that the letter is inappropriate and we disagree with its contents; tactical objective and its overall intended purpose. We ask ICANN Board and GNP not to countenance the letter.
2. There is no place in the new gTLD procedures or governing policy for this type of letter. It is neither a legitimate challenge to the 'resumed evaluation' by ICANN of DCA Trust's .Africa application; nor is it a solicited input that would aid the process.
3. From Section 2.4.3.1 of the new gTLD Applicant Guidebook, we can infer the important stipulation to:

**“safeguard against the potential for inappropriate influence and ensure applications are evaluated in an objective and independent manner”.**

We therefore strongly believe that the letter by AUC Commissioner amounts to inappropriate interference designed to undermine the objectivity and independence of the GNP.

4. We note that Section 2.2.4. ('Communication Channels') of the ICANN new gTLD Applicant Guidebook clearly stipulates *inter alia*:

***“Contacting individual ICANN staff members, Board members, or individuals engaged by ICANN to perform an evaluation role in order to lobby for a particular outcome or to obtain confidential information about applications under review is not appropriate.”***

Therefore, no party (including the AUC) may contact an Evaluation Panel (or Panels) directly. This ensures that any work being conducted by an Evaluation Panel is independent and free of interference from any party. It is obvious that the AUC letter is intended to advocate (or lobby) for a particular outcome and is very inappropriate according to the Guidebook provisions.

5. The DCA vs ICANN IRP brought to light the same kind of inappropriate intervention by ICANN staff in the initial GNP Evaluation of both .Africa applications. These irregularities were extensively covered during the IRP in which DCA prevailed. Impartiality may have been compromised. InterConnect Communication's (ICC) Mark McFadden wrote: ***“so far, so good, I think. The ball is now in Sophia's court – if she wants to invoke Independent Review, then good luck to her.”***

Finally, DCA urges ICANN to disregard these letters as it is intended to create a negative influence that would prejudice the outcome of the 'resumed evaluation' by ICANN in order to fail DCA Trust's .Africa application. Therefore, if accepted by for the purpose of the present 'resumed evaluation' by ICANN of DCA Trust's .Africa application, it would be a serious violation of the new gTLD Guidebook principles, and due process.



## Part II

Since the AUC Infrastructure and Energy Division letter has mentioned several points pertaining to GAC Early Warnings, GAC Objection Advice, Governmental support, AU RFP etc., we use this opportunity to exercise our right to respond to those points. We find it necessary to restate our views on the subject as follows:

### I) Early Warning & GAC Objection Advice

DCA Trust has always questioned the validity of the GAC Early Warnings – since those were provided mostly by ccTLD operatives who have no mandate over .Africa. The operatives **had not consulted with their home governments** but were made to sign a pre-prepared template.

Similarly, DCA has already questioned the validity of the GAC Objection that was procured against DCA Trust's .Africa application, and the ICANN Board decision in that regard. DCA disagreed with the objection advice and ICANN Board decision and these issues have already been addressed during the IRP - the unanimous decision of the IRP Panel was ***“that both the actions and inactions of the Board with respect to the application of DCA Trust relating to the .AFRICA gTLD were inconsistent with the Articles of Incorporation and Bylaws of ICANN”***<sup>1</sup>.

### II) Issue of Governmental Support

#### On Matters of AUC

#### a. Purported Withdrawal of DCA' s Endorsement for .africa

First, in 2009 DCA Trust received a letter of support from the AUC Chairperson the highest office of the institution. We have always maintained that this endorsement for the .Africa string remains valid. Efforts that were made to repudiate or withdraw the letter of support that had been legitimately granted to DCA Trust are not reasonable within the context of the application process. This is the same position that we have clearly stated in our application's Answer to Evaluation Question No. 21. In this regard therefore, our position remains unchanged. We think that a validly issued letter of support cannot be withdrawn by an endorsing party unless there is non-performance of a contract. This is provided for in the guidebook 2.2.1.4.3 Documentation Requirements page 71 of 338.

#### b. Purported Heads of State Declarations & Ministerial Resolutions on .africa

It is our view that as far as the new gTLD Program is concerned, these Ministerial Declarations and Resolutions mentioned in the AUC letter written by Infrastructure and Energy Division do **not count as valid endorsements, letters of support or objections**. This view has also been reinforced by ICC during their review of endorsement as evidenced in the IRP discovery process.

For instance, various examples have been noted in the AUC's letter on such matters. These include the Heads of State Oliver Tambo declaration dated 2-5 November 2009, ICT Ministers Abuja Declaration dated 3-7 August 2010 and recently in the attached document to the GNP citing a resolution Number 11, dated 4<sup>th</sup> September 2015 Addis Ababa Declaration of the First Ordinary Session of the African Union Specialized Technical Committee on Communication and Information Technologies (STC-CICT). The latter states amongst other numerous project lists by the division:

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<sup>1</sup> Cf. No. 148 on page 61 of IRP Final Declaration

***“PROVIDE all required support to the African Union Commission (AUC) as the only vehicle for the implementation of Dot Africa and withdraw all supports provided to competing applications to the one championed by AUC;”***

These are the sorts of statements that are deliberately inserted in official Communiqués and Resolutions. Heads of State and or Ministers may or may not actually be present or not –as for example in the Dakar 2011 Ministerial meeting that we are often forced to challenge. Such carefully crafted resolutions of questionable validity are often being used to justify a legitimate support or voice of Africa in the .africa matter. It is not correct.

**c. Lack of 60% Requirement by ZACR/AUC Infrastructure and Energy Division application for .africa**

It would have been more convincing if the AUC Infrastructure and Energy Division had obtained the individual endorsements from 60 per cent of the individual countries in Africa to demonstrate that in truth the AUC has been given the **required support or Mandate from African Heads of States and Governments** as the only vehicle for the implementation of DotAfrica, instead of the use of yet another resolution or declaration.

How could informed African ICT ministers issue yet another Declaration that approves the AUC infrastructure and Energy Division as ***‘the only vehicle for the implementation of DotAfrica’***, against the backdrop that, in truth, the AUC Infrastructure and Energy Division cannot implement DotAfrica – for the simple reason that the AUC is a political organization, which is not in the Internet DNS/registry services business?

Whether such Resolutions and Declarations are actually the appropriate means or not of conveying endorsements or withdrawing the support that has already been granted to competitors, we also believe that technically speaking, since the **AUC Infrastructure and Energy Division** is a **“co-applicant”** on the .Africa application that was submitted by ZACR<sup>2</sup>, where ZACR stated it **“has given the rights of the registry database and the intellectual property to AUC in a separate contract”**, the AUC Infrastructure and Energy Division cannot **self-endorse** itself for the .Africa string name, since it does not have the individual country endorsements - as required under the Guidebook ***“documentation of support will be required from at least 60% of the respective national governments in the region.”***)

**d. Misrepresentation of endorsement by AUC Infrastructure and Energy Division for .africa**

It must be noted that the letters that the AUC Infrastructure and Energy Division had provided in support of its position on .Africa was for the .Africa new gTLD domain name and its equivalents in other languages (French, Arabic, etc.) to be included in the List of Top-Level Reserved Names so as to enable the AUC benefit from a special legislative protection such as the International Red Cross Society and the International Olympic Movement. This request was not approved by ICANN; all the same, ZACR/AU Infrastructure and Energy Division had appropriated such letters as its own letters of endorsement – which were not accepted as valid.

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<sup>2</sup> ZACR/AUC **Application ID:** 1-1243-89583 <https://gtldresult.icann.org/applicationstatus/applicationdetails/1184>

### III) The AUC RFP Process was not open and transparent

The AUC Infrastructure and Energy Division letter claims unequivocally that **an open and transparent process was followed** in appointing ZACR as the winner of the Request for Proposals (RFP) process on .Africa. We beg to differ – and the correct answers to the following pointed questions would clarify matters for everyone’s benefit:

- How was the AUC .Africa RFP conducted?
- Where is the **complete list of firms/companies that responded to the AUC RFP** on .Africa?
- Where are the **official minutes of the AUC Tender Board meeting** that had been held to deliberate upon, and give consideration to the RFP outcome; and subsequent approval of the evaluated RFP results?
- **Was the .Africa RFP handled by the AUC Procurement Division?** And if not; why was the RFP not overseen by the AUC Procurement Unit as per AUC working procedures and official policy regarding RFPs, RFQs, and such like processes that are used to administrate procurement actions?

**We hereby challenge the AUC to support its claim of an open and transparent process by proving to the entire world that the RFP was conducted based on a transparent and accountable process.**

The position of DCA Trust has always been that the Country-Code Top Level Domains (ccTLDs) such as ZADNA (South African Domain Names Authority) and .CO.ZA also got involved in the process even though they have no mandate over .Africa and recommended that the ZACR should be appointed as the registry operator of .Africa – the same ZACR that manages the .CO.ZA second-level domain under .ZA ccTLD. Even the AUC RFP document mentioned that prospective bidders should partner with African ccTLDs which had caused DCA Trust to raise an exception remark during the last quarter of 2011. Furthermore, we also believe that Mr. Vika Mpisane then head of the ZADNA, and the AfTLD, had made the recommendation to the AUC that resulted in the appointment of ZACR as the registry operator of .Africa new gTLD by the AUC. Therefore, it is evident that there was no competitive, open and transparent RFP process despite claims to the contrary.

Consequently, we wish to request the AUC as a Pan-African institution that also aims to operate according to global best practices to demonstrate to ICANN, the ICANN GNP, and even to the ICANN GAC, that it had followed a regular, procurement process that was **overseen by the AUC Procurement Division and approved by the AUC Tender Board** in reaching a final decision to appoint ZACR as the registry operator of .Africa.

We believe that the entire .Africa saga has been bedeviled by these irregularities, and until a proper Administrative Panel of Inquiry is instituted to look into these issues, these problems shall remain unresolved.

#### **Lack of Community Application on .Africa by AU RFP**

Similarly, the AUC Infrastructure and Energy Division letter claimed in 2012 to have appointed ZACR to apply for .Africa gTLD on behalf of the African Community, yet the same ZACR failed to submit a Community TLD application – as per its appointment letter an observation that had caused DCA to challenge the validity of ZACR’s application; which also clearly failed to acknowledge any community affiliation (by leaving the answers to the relevant evaluation questions blank).

## On Matters of UNECA

### a. Purported withdrawal of DCA's UNECA Endorsement by UNECA's Secretary of the Commission

First off, we are surprised at UNECA's statement coming more than seven years after the endorsement was first written and given to DCA Trust in 2008, by the highest offices of the UNECA; and more than three years after the closing of the new gTLD application window in 2012.

We wish to note that the UNECA letter to the AUC would not have been written if ICANN had not **"resumed the evaluation"** of DCA Trust's .Africa application after the Final IRP decision was issued in July 2015. For instance, the attached document provided by the AUC Commissioner, Number 36 of the Addis Ababa Resolution of the First Ordinary Session of the African Union Specialized Technical Committee on Communication and Information Technologies (STC-CICT) on 4<sup>th</sup> September 2015 reads:

***"The United Nations Economic Commission for Africa (UNECA) to provide AUC with all required support for the implementation of Dot Africa, including the withdrawal of all support provided earlier to any other entity on matters related to dot Africa;"***<sup>3</sup>.

It is patent from this excerpt that the **UNECA has not acted independently**, but has been unduly pressured by the AUC Commissioner to write this letter. This can be substantiated by the UNECA correspondence of 22<sup>nd</sup> September 2015 by the Executive Secretary Carlos Lopez, careful response (based on the urging of the AUC Commissioner for Infrastructure and Energy), attempting to renounce the earlier letter of support that had been issued to DCA Trust in 2008. This letter was also copied directly to DCA, correctly noted that the **'issue is of a legal nature'** and we expect ICANN and the ICANN GNP to take note of this specific fact.<sup>4</sup>

DCA strongly believes that this type of 'politics' have no place in the ICANN new gTLD Program. **The gTLD rulebook is procedure based program to fulfill certain contractual requirement and not led by governmental politics**, particularly when the governmental entity is partisan in this matter, due to being a competitor to DCA. To restate what we have already said, a validly issued letter of support cannot be withdrawn by an endorsing party unless there is non-performance of a contract. This is reinforced by guidebook 2.2.1.4.3 *Documentation Requirements page 71 of 338*.

We also wish to bring to your attention that **there is an apparent incongruity in the date(s) of the UNECA letter that was written and signed by Ms. Sandra Baffoe-Bonnie**, as Secretary of the Commission and Legal advisor. We believe that these inconsistencies in dates are attributable to deliberate coordination.<sup>5</sup>

For example, a copy of the same letter that was sent by email to DCA Trust on Saturday, 26<sup>th</sup> September 2015 bears a 21<sup>st</sup> September, 2015 date; whereas a copy of the same letter signed by Ms. Sandra Baffoe-Bonnie of UNECA discussing the same subject, having exactly the same contents and the same reference number (OES/15/09/0157), that was submitted to the ICANN GNP by the AUC Commissioner for Infrastructure and Energy Dr. Elham Ibrahim bears a July 20, 2015 date. Interestingly, Dr. Elham Ibrahim's letter to the UNECA to solicit support (**'Re: Request for Support for DotAfrica Project'**) was dated 4<sup>th</sup> August 2015 with Reference No. CIE/L//20/292.15. **The UNECA could not have replied (on July 20, 2015)** to a request made by the AUC Commissioner for Infrastructure and Energy, even two weeks before receiving the AUC's letter that bears a date of 4<sup>th</sup> August 2015.

<sup>3</sup> See page 7 of document available at <https://www.icann.org/en/system/files/correspondence/ibrahim-to-gnp-29sep15-en.pdf>

<sup>4</sup> UNECA Response for Dot Africa Project 2015 <http://dotconnectafrica.org/wp-content/uploads/2015/10/UNECA-Response-for-Dot-Africa-Project-2015.pdf>

<sup>5</sup> Letter from UNECA .africa Page 3 of 12 <https://www.icann.org/en/system/files/correspondence/ibrahim-to-gnp-29sep15-en.pdf>

On our part, we have reasoned that the only explanation for these apparent incongruities in dates is attributable to the simple fact that the date on the copy of the UNECA letter that was sent to the ICANN GNP **was amended after the fact to give the impression that the UNECA letter was written several weeks before the resumption of the GNP Evaluation of DCA Trust’s .Africa application; even though this is not the case** Therefore it should be dismissed as not credible.

**b. On Whether the UNECA is a public authority or not**

We are quite surprised that the **Secretary of the Commission of UNECA, Ms. Sandra Baffoe-Bonnie** has claimed that UNECA is not a public authority, and that its letter written to DCA should not be considered as an endorsement for the purpose of the ICANN new gTLD process, even though the letter of support from UNECA clearly indicated that it was supporting DCA for an application that would be submitted to ICANN for the .Africa top level domain name at the time it was issued.

UNECA is a Pan-African organization, established in 1958, that is also a member of the global United Nations Organization (UNO), and whose member states are the independent African countries. UNECA cannot suddenly **cease to be a public authority because of the issue of endorsing a geographic name string under the ICANN new gTLD Program** even though the same organization is largely recognized as a public authority by many who are informed and knowledgeable about the UNECA, including UNECA being a member of ICANN GAC since 2004.

The Secretary of the Commission is also not in any position to interpret the New gTLD guidebook for the GNP. The GNP is to do their work independently.

The undersigned is also well aware that UNECA is a public authority, and is quite familiar with the work of UNECA having been appointed by then UNECA Executive-Secretary, Mr. K.Y. Amoako in 2002/2003 and served on the African Technical Advisory Committee (ATAC) – a high-level expert advisory board - that was convened to provide informed policy advice to African Ministers of Information and Communications Technologies. See also personal testimony on IRP.<sup>6</sup>

**c. Our UNECA letter of support should be accepted as a valid endorsement for the .Africa geographic name string**

The excerpt from the Final IRP Declaration which confirms an ICANN official position in a legal proceeding states *inter alia*:

***“Pursuant to the ICC’s advice, the UNECA’s endorsement was taken into account. Like the AUC, the UNECA had signed letters of support for both DCA and ZACR.<sup>82</sup> The ICC advised that because the UNECA was specifically named in the Abuja Declaration, it too should be treated as a relevant public authority.<sup>83</sup> ICANN accepted the ICC’s advice”. (This excerpt has been taken from No. 45 page 37 (Under Section No. 90) of the Final IRP Declaration [PDF, 1.04 MB] which may be found [here](#).)<sup>7</sup>***

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<sup>6</sup> Sophia Bekele Personal testimony to IRP Panel <https://www.icann.org/en/system/files/files/eshete-witness-statement-redacted-03nov14-en.pdf>

<sup>7</sup> Excerpt Final ruling DCA Trust vs ICANN IRP <https://www.icann.org/en/system/files/files/final-declaration-2-redacted-09jul15-en.pdf>

We wish to note that since the UNECA endorsement has already been considered positively for ZACR/AUC Infrastructure and Energy Division – our competitor for the .Africa new gTLD string it would be an act of discrimination and unfair evaluation, if the same UNECA endorsement which DCA Trust has submitted was rejected based on the AUC’s Infrastructure and Energy Division’s unwarranted intervention in the process.

### **On matters of Individual Governments**

If the AUC’s support as a public authority equates to the 60 per cent requirement, then the UNECA letter of support that DCA Trust has submitted should also be considered as equivalent to satisfying the 60 per cent requirement for the sake of equitable and fair treatment to both .Africa new gTLD applicants.

## **Conclusion**

In conclusion, as already conveyed in an official letter dated July 17, 2015 to the ICANN Board Chairman<sup>8</sup>, DCA believes that certain new obstacles such as the UNECA Letter to the AUC are now being re-introduced as after-the-fact measures that would deliberately create the same problems that we have already overcome in the past. Therefore, this substantiates that DCA has no faith in this **“resumed evaluation by ICANN”**. We would not normally participate in an evaluation process which we already think is prejudiced, but have participated in order to satisfy due process requirements, and complete all necessary formalities, even though it is crystal clear that DCA Trust has already satisfied all necessary criteria at the time of application.

Finally, we wish to reiterate that the AUC Infrastructure and Energy Division interference in this evaluation of DCA Trust’s .Africa application is regrettable, and should be dismissed and not given any credence nor consideration. The letter is a complete violation of the new gTLD guidebook on due process and independence.

Thanking you in anticipation even as we express the hope that the ICANN GNP will remain unprejudiced and act in compliance with approved policy giving consideration given to equity, fairness and natural justice.

Yours sincerely,



Sophia Bekele  
Executive Director/CEO  
DotConnectAfrica Trust  
Application ID: 1-1165-42560

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<sup>8</sup> DCA Trust Official letter to the ICANN Board Chairman <https://www.icann.org/en/system/files/correspondence/bekele-to-crocker-chehade-21jul15-en.pdf>