

# United States Senate

WASHINGTON, DC 20510

April 4, 2016

Dr. Stephen D. Crocker  
Chairman of the Board of Directors  
Internet Corporation for Assigned Names and Numbers (ICANN)  
12025 Waterfront Drive, Suite 30  
Los Angeles, CA 90094-2536

Dear Dr. Crocker,

On March 3, 2016, we sent you a letter requesting information to gain a better understanding of the potential implications of ICANN's relationship with the Chinese government and its impact on the Internet Assigned Numbers Authority (IANA) transition. Since then, ICANN has submitted to the U.S. government an IANA Stewardship Transition Proposal that seeks to end U.S. government oversight of the IANA functions. Given this recent development and congressional concerns over ICANN's transparency, accountability, and relationship with the Chinese government, it is imperative that we receive a response to our letter.

After sending our initial request 32 days ago, your staff indicated that you would be unable to respond before March 18. Two weeks has passed since your own self-extended deadline, and ICANN has not only failed to provide a response, but has been unable or unwilling to provide an exact date for when we can expect a complete response to our March 3 letter.

This series of events comes on the heels of ICANN CEO Fadi Chehadé's failure to respond to all of the questions in our February 4, 2016 letter addressed to him. We would note that not only did Mr. Chehadé fail to respond to our questions in full, but he disparaged the oversight request during a February 5 question-and-answer session in Los Angeles, California with members of ICANN's Generic Names Supporting Organization Non-Contracted Party House. During the session, Mr. Chehadé stated:

And you know that this letter is not driven by anyone really worried about the transition. This is someone really worried about politics. So let's not bring politics into the transition.... Let's resist bringing the politics of our lovely capital into this process.... I think everyone knows this is political, even those in his own party.... We will answer all these questions... And we will respond to the questions fully, to the Senators' full satisfaction.

To our dismay, ICANN has failed to respond in full to questions posed in two oversight letters. We are therefore resending our questions and ask that you and Mr. Chehadé provide a response to all unanswered questions (provided below) from our February 4 and March 3 letters as soon as possible, but **no later than 9:00 a.m. on Thursday, April 7, 2016.**

**Four weeks ago, on March 3, 2016, we asked you to provide the following information:**

1. Please state when you first learned that ICANN CEO Fadi Chehadé had agreed to co-chair a high-level advisory committee for the Chinese government's state-sponsored World Internet Conference.
  - a. Please provide a yes-or-no answer to the following question: Did you agree with Fadi Chehadé's decision to co-chair a high level advisory committee for the World Internet Conference?
  - b. Did ICANN's Board of Directors approve of Fadi Chehadé's decision to co-chair a high level advisory committee for the World Internet Conference?
  - c. Did any member of ICANN's Board of Directors ask Fadi Chehadé to step down from his position as CEO and President of ICANN?
  - d. Please provide the meeting minutes, attendance records, and all other documents associated with ICANN's Board of Directors' meeting(s) with Fadi Chehadé in which his commitment to co-chair a high level advisory committee for the World Internet Conference was discussed.
2. Please provide a yes-or-no answer to the following question: It has been reported that ICANN's Board of Directors took no action against Fadi Chehadé because "[t]he view eventually prevailed that no reactive action should be taken lest China lose face." Did ICANN refrain from taking action against Fadi Chehadé due to concern that China may lose face?
3. Fadi Chehadé has been called on to recuse himself from all discussions and negotiations pertaining to the IANA transition given a confirmed personal conflict of interest with the Chinese government. Has ICANN taken any action to ensure that Fadi Chehadé will recuse himself from the IANA transition? If no, please describe the reason for ICANN's inaction.
4. During ICANN's 46th public meeting in Beijing, Fadi Chehadé stated, "China is going to be a central part of where the Internet community, as we know it, is heading. And, therefore, in my clear discussions with the local responsible ministers, that from ICANN's standpoint, engagement with China is not an option. It is not an option. If we do not engage with China at every level of our community, we, frankly, lose a part of our global legitimacy. We must and we will. And that's why we're here today." Do you agree with the statement that ICANN will lose part of its global legitimacy if it does not engage with China at every level of the community?
5. When ICANN announced it was opening its first global engagement office in Beijing, the China Internet Network Information Center (CNNIC) stated that it would "invest necessary human and material resources in the construction of the center and actively carry out its functions including the coordination, communication, as well as operation in

order to provide effective, long-term and stable services for ICANN to serve China's Internet industry." Please provide yes-or-no answers to the following questions:

- a. Did CNNIC invest human and material resources in the construction of ICANN's global engagement office in Beijing?
  - b. Is CNNIC actively carrying out the functions, coordination, communication, or operation of ICANN's global engagement office in Beijing?
  - c. Do any individuals associated with CNNIC or the Chinese government have a formal or informal role in ICANN's global engagement office in Beijing?
6. ICANN currently lists the address for each hub office and engagement office on its website except for the engagement office in Beijing.<sup>1</sup> Please provide the address of ICANN's engagement office in Beijing.
  7. When Lu Wei, Minister of the Cyberspace Administration of China and Incumbent Vice Minister of the Central Propaganda Department, assumed the role of the Chairperson of CNNIC in December 2014, did ICANN take any action to ensure that its global engagement office in Beijing was not being used to carry out censorship for the Chinese government?
  8. Do you agree with the Business Constituency's concern that the term "Chinese registrant" in XYZ's RSEP is too broad and could be interpreted to allow the extraterritorial application of Chinese censorship law to include residents of Hong Kong?
  9. Do you agree that approval of XYZ's RSEP will place XYZ in a position of having to comply with government-sponsored censorship of domain names for political purposes, which will undermine a stable Internet ecosystem?
  10. A member of the Non-Connected Party House's (NCPH) Commercial Stakeholder Group recently stated, "The ICANN board wants to engage more with China and India following the IANA transition, which somewhat explains the board's decision not to take action against Chehadé."
    - a. Please describe ICANN's plans for engagement with China following a potential IANA transition.
    - b. Did ICANN's post IANA transition plans with China play any role in the decision not to take action against Fadi Chehadé?

**Sixty days ago, on February 4, 2016, we asked Fadi Chehadé to provide the following information:**

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<sup>1</sup> Contact. Internet Corporation for Assigned Names and Numbers, n.d. Web. <<https://www.icann.org/resources/pages/contact-2012-02-06-en>>.

1. On December 23, 2015, in an ICANN blog post, you announced that you would be serving as the co-chair of a newly formed advisory committee to the World Internet Conference in Wuzhen. In that blog post, you noted that “the first meeting of the committee will take place in Summer 2016.” However, a World Internet Conference press release on December 21, 2015, announcing the advisory committee stated that “[t]he advisory committee held its first meeting on the sidelines of the second WIC in Wuzhen of east China's Zhejiang Province.”
  - a. Please provide a yes-or-no answer to the following question: Did the advisory committee meet in Wuzhen during the second World Internet Conference? If yes, did you participate?
  - b. What was discussed during the meeting? Specifically, did the advisory committee discuss the IANA transition or the role of the United States Government?
  - c. Do you believe that advisory committee participants share the United States’ view of a free and open Internet?
2. Did ICANN’s Board of Directors approve your attendance and participation at the World Internet Conference?
3. When did you first notify ICANN’s Board of Directors that you had agreed to serve as a co-chair of the advisory committee for the World Internet Conference?
4. Have you notified the National Telecommunications and Information Administration (NTIA) or any official within the United States Government regarding your commitment to serve as a co-chair of the advisory committee? If yes, please list who you notified and the date of the notification.
  - a. Have you notified NTIA of any personal conflicts of interest? If yes, please describe the conflicts discussed and if such conflicts will be addressed.
5. Given the Chinese government’s history of censorship and suppression of free speech, is it appropriate to participate in the World Internet Conference while serving as the Chief Executive Officer of ICANN?
6. Do you believe that your attendance and participation in the World Internet Conference makes ICANN complicit in the Chinese censorship regime?

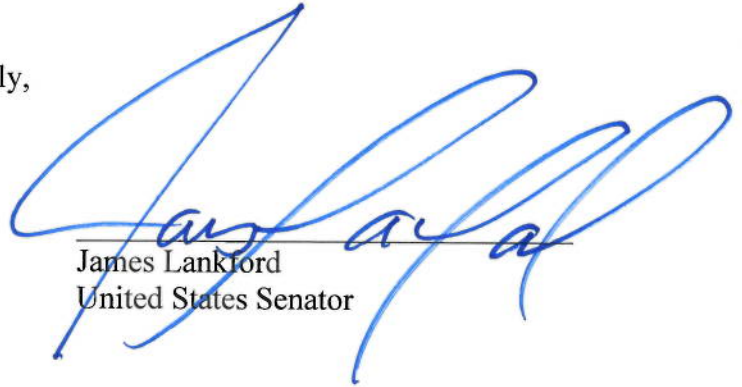
Thank you for your cooperation and attention in this matter. Please contact Sean McLean (Senator Cruz), Sarah Seitz (Senator Lankford), and Christy Knese (Senator Lee) of our staffs if there are any questions regarding this request.

Sincerely,



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Ted Cruz  
United States Senator



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James Lankford  
United States Senator



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Michael S. Lee  
United States Senator

cc: Mr. Fadi Chehadé, Former Chief Executive Officer, Internet Corporation for Assigned Names and Numbers

The Honorable Lawrence E. Strickling, Assistant Secretary for Communications and Information, U.S. Department of Commerce