

The Honourable Alan GANOO

Minister of Foreign Affairs, Regional Integration and International Trade
Ministry of Foreign Affairs, Regional Integration and International Trade
Newton Tower
Sir William Newton Street
Port Louis
Republic of Mauritius

The Honourable Maneesh GOBIN

Attorney General
Attorney General's Office
Renganaden Seeneevassen Building
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Republic of Mauritius

Dear Hon. Messrs Ganoo and Gobin,

The Number Resource Organization (**NRO**) is the coordinating body for the world's Regional Internet Registries (**RIRs**). The RIRs manage the distribution of Internet number resources (IP address space and Autonomous System Numbers) within their respective regions.

The NRO is writing to address significant concerns that have arisen in Mauritius regarding the pan-African headquarters in Mauritius of AFRINIC, one of the five members of the NRO and whose territory includes the African continent. The entities which make up the NRO include AFRINIC and the four RIRs on other continents, including

1. The Asia Pacific Network Information Centre (APNIC), headquartered in Brisbane, Australia, whose territory includes the countries in the Asia-Pacific region and Oceania;
2. The American Registry of Internet Numbers, Ltd. (ARIN), headquartered in the US, and whose territory includes the United States, Canada, and a number of countries in the Caribbean;
3. LACNIC, headquartered in Montevideo, Uruguay, whose territory includes Mexico, a number of countries in the Caribbean, and all countries southward in South America; and
4. The RIPE Network Coordination Centre (RIPE NCC), headquartered in Amsterdam, and whose territory includes Europe, the Middle East and Central Asia.

All five of the registries, including AFRINIC, perform the important function of administering Internet number resources in their respective region under rules adopted by the members in each region, or global policies adopted unanimously by all five registries.

It is critical to the proper function of the Internet that AFRINIC be able to perform the key functions on behalf of Africa. To successfully operate a continental wide entity such as

AFRINIC, the African Internet community deliberately chose to locate its headquarters in Mauritius in order to obtain the benefit of a stable and consistent legal system.

Prior to this definition, the region was served by other RIRs and after many years of conversations and negotiations, the African community finally recognized Mauritius as the most appropriate place to host this fundamental role for the regional Internet.

The relevance of AFRINIC is of a high degree in the regional life. It not only provides services to Internet operators but also fosters digital culture throughout the region which goes beyond the commercial exchange of goods and services. Year after year, AFRINIC generates knowledge in thousands of Africans, and this is a cultural process produced by Africans for Africa.

For the last 12 months, AFRINIC has been inappropriately disrupted in its ability to perform its critical functions. Over 25 lawsuits have been filed against it by an entity known as Cloud Innovation Ltd, with registered address in Seychelles, and which is owned and controlled by a Mr. Lu Heng, a resident of Hong Kong.

It is not uncommon for a wealthy plaintiff to act in this vexatious manner. Unfortunately, it appears to us that this litigant has abused this legal process to frustrate and attempt to cause irreparable harm to the core functions of AFRINIC. For example, at least twice the courts have issued *ex parte* orders on behalf of this foreign domiciled litigant, whose main business is maintained outside of Africa. Those orders have severely and negatively impacted AFRINIC. The first such order froze AFRINIC's bank accounts for an extended period of time; and while that *ex parte* order was lifted by the Mauritian courts once AFRINIC was able to make its case, it took nearly three months for such relief to be granted which understandably caused undue strain on the AFRINIC organization and posed a threat to the Internet ecosystem in Africa. More recently, another *ex parte* order was entered stopping the annual election of Directors from across Africa at AFRINIC's Annual General Members Meeting. While we acknowledge and respect the right of complainants to seek such orders, and the Mauritian Courts to grant them, the issuance of these types of *ex parte* Orders have hampered the provision of a vital service necessary for Mauritius and Africa. It has placed in unnecessary and serious jeopardy the normal and routine work of Internet administration.

It would be very unfortunate for the African regional community if the above situation proves that the designation of Mauritius as the place to locate AFRINIC has been wrong.

It is our understanding that AFRINIC has repeatedly asked for recognition from Mauritius of it as an international organization. We understand this is both appropriate for AFRINIC to obtain this status, and that if granted, it might lead to more appropriate outcomes which would recognise the critical position AFRINIC plays in the Internet ecosystem, while also ensuring AFRINIC continues to remain accountable and subject to Mauritian laws. Providing AFRINIC this status is consistent with the rule of law and leaves the courts to provide any

reasonable check on AFRINIC. We collectively urge you to consider addressing this issue as rapidly as possible, or to take such other actions that may help to preserve and protect the independence of AFRINIC and the stability of the Internet in Africa. We appreciate your consideration of any such steps.

Finally, the legal files are now replete with expert affidavits speaking of unlawful behaviour on the part of the litigant. A review of those affidavits by government authorities, in addition to their consideration in continuance of judicial proceedings, may provide important information to you in your duties.

Sincerely,

THE NUMBER RESOURCE ORGANIZATION

ASIA PACIFIC NETWORK INFORMATION CENTRE

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Paul Wilson
Director General

AMERICAN REGISTRY FOR INTERNET NUMBERS, LTD.

By: 
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By: 
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