

# United States Senate

WASHINGTON, DC 20510

February 4, 2016

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

Dear Mr. Chehade:

On March 14, 2014, the National Telecommunications and Information Administration (“NTIA”) announced its intent to relinquish oversight of Internet domain name functions to the Internet Corporation for Assigned Names and Numbers (ICANN) and the “global stakeholder community.”

When testifying before the House Energy and Commerce Committee, you stated that “NTIA’s announcement preserves and prolongs the free and open Internet that has brought so much economic growth and social and cultural development.”<sup>1</sup> Given your assurance to preserve and prolong the free and open Internet, we were surprised and dismayed to learn that you have agreed to co-chair a high-level advisory committee for the World Internet Conference, which is organized by the Chinese government, while you serve as the Chief Executive Officer of ICANN under contract with the United States Government.<sup>2</sup>

As you must know, the World Internet Conference is not a beacon of free speech. It has been heavily criticized by members of the press for refusing to allow China-based reporters for the *New York Times* and *Washington Post* to cover the conference.<sup>3</sup> Reporters Without Borders demanded an international boycott of the conference, calling China the “enemy of the Internet.”<sup>4</sup> In addition, GreatFire co-founder, Charlie Smith, described foreign guests of the Conference as “complicit actors in the Chinese censorship regime and are lending legitimacy to Lu Wei, CAC and their heavy-handed approach to Internet governance. They are, in effect, helping to put all Chinese who stand for their constitutional right to free speech behind bars.”<sup>5</sup>

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<sup>1</sup> “*Ensuring the Security, Stability, Resilience and Freedom of the Global Internet.*”, 113th Cong. (2014) (testimony of Fadi Chehadé). Print.

<sup>2</sup> “High-level Advisory Committee Established for World Internet Conference.” *World Internet Conference*. N.p., 21 Dec. 2015. Web. <[http://www.wuzhenwic.org/2015-12/21/c\\_48303.htm](http://www.wuzhenwic.org/2015-12/21/c_48303.htm)>.

<sup>3</sup> Makinen, Julie, Yingzhi Yang, and Alexandra Li. “‘Freedom requires strict order’: China preps for second World Internet Conference.” *Los Angeles Times*. N.p., 15 December 2015. Web.

<sup>4</sup> Reporters Without Borders. *RSF Calls for boycott of China’s World Internet Conference*. N.p., 11 Dec. 2015. Web. <<http://en.rsf.org/china-rsf-calls-for-boycott-of-china-s-11-12-2015,48632.html>>.

<sup>5</sup> Reporters Without Borders. *RSF Calls for boycott of China’s World Internet Conference*. N.p., 11 Dec. 2015. Web. <<http://en.rsf.org/china-rsf-calls-for-boycott-of-china-s-11-12-2015,48632.html>>.

ICANN's participation in the World Internet Conference is especially concerning because of the Chinese government's long and established record of restricting free access to the Internet, censoring content, and criminalizing certain forms of online speech. Just recently, Freedom House, an independent watchdog organization dedicated to the expansion of freedom and democracy around the world, released their report "Freedom on the Net 2015" in which China was ranked last in the world for Internet freedom.<sup>6</sup> Not only has China used the Internet as means of surveillance within its borders, but some believe that Chinese hackers may be responsible for a breach of U.S. Government databases at the Office of Personnel Management, which resulted in the theft of personal information of more than 22 million Americans.<sup>7</sup>

Also concerning is the membership of the Conference's advisory committee on which you have agreed to serve. Your co-chair, for instance, is Jack Ma, founder of China's Internet giant Alibaba, which is currently helping the Chinese government develop a "social credit system" to monitor and score the behavior of individuals and businesses in China. In addition, some of the members of the committee, such as the United Nations' International Telecommunication Union, the League of Arab States, the Russian Safe Internet League, and the Ministry of Information and Communications Technology of Iran, represent countries whose policies have undermined a free and open Internet.

Finally, your participation as a co-chair of the committee raises concerns about a personal conflict of interest while you serve as the Chief Executive Officer of ICANN under contract with the United States Government. According to federal regulations, a personal conflict of interest is defined as "a situation in which a covered employee has a financial interest, personal activity or relationship that could impair the employee's ability to act impartially and in the best interest of the Government when performing under the contract."<sup>8</sup> Potential sources of personal conflicts are gifts, including travel; compensation, including wages, salaries, commission, professional fees, or fees for business referrals; other employment or financial relationships (including seeking or negotiating for prospective employment or business); and consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation).

In order to gain a better understanding of the potential implications for the United States Government of your service on the advisory committee for the World Internet Conference, we request that you provide a response to the following questions as soon as possible, but **no later than 9:00 a.m. on Friday, February 19, 2016.**

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

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<sup>6</sup> *Freedom on the Net 2015*. Rep. Freedom House, 27 Oct. 2015. Web.

<sup>7</sup> Sanger, David E. "U.S. Decides to Retaliate Against China's Hacking." *New York Times* 1 Aug. 2015: A6. Print.

<sup>8</sup> Preventing Personal Conflicts of Interest, 48 C.F.R. 52.203-16 (2011). Print.

“[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. In your December 23, 2015 blog post you stated, “I have accepted an appointment with a financial institution, and in addition, I've been invited to serve in several part-time advisory roles post ICANN.” Please list these advisory role offers.
  6. Have you received any financial compensation or reimbursement including travel, wages, salaries, commission, or professional fees in your capacity as co-chair for the advisory committee?
  7. Have you sought, negotiated, or discussed prospective employment or business opportunities with the Chinese government or any member of the advisory committee?
  8. 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?
  9. Do you believe that your attendance and participation in the World Internet Conference makes ICANN complicit in the Chinese censorship regime?

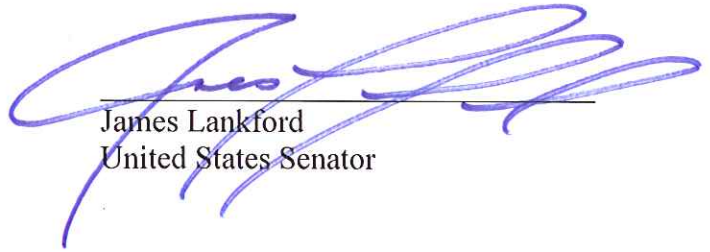
We appreciate your cooperation in this very important matter and look forward to your response at the stated date and time. Please contact Sean McLean (Senator Cruz), Sarah Seitz (Senator Lankford), and Christy Knese (Senator Lee) of our staffs if there are any questions regarding this request.

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: Dr. Steve Crocker, Chair, Board of Directors, Internet Corporation for Assigned Names and Numbers

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