

COMMUNIQUE ON BEHALF OF AFRINIC AND ITS RECEIVER
in line with Court Order from the Supreme Court of Mauritius dated 19 June 2025

A. Court Application by The Internet Corporation for Assigned Names and Numbers (“ICANN”)

1. AFRINIC is currently under the supervision of a court-appointed Receiver, whose mandate is to maintain the status quo, oversee the reconstitution of the Board, and ensure compliance with the orders of the Supreme Court of Mauritius.
2. On 18 June 2025, pursuant to Section 210 of the Insolvency Act 2009, ICANN filed an application against AfrINIC and its Receiver before the Supreme Court of Mauritius seeking the following Orders:

a) For an Order directing the Respondent (the Receiver), unequivocally ahead of the 2025 Afrinic Board of Directors elections to forthwith take and implement the following actions:

i. Issuance of an Immediate and Formal Communication

The Respondent (the Receiver) to forthwith issue a comprehensive and unequivocal public statement to all “Resource Members” of the Third Party, clarifying the true status of Cloud Innovation Ltd (CIL) and explicitly affirming that CIL’s erroneous registration in the books and records of the Registrar of Companies and CIL’s erroneous registration on the Companies and Businesses Registration Integrated System (CBRIS) of the Registrar of Companies in Mauritius confer no special rights, privileges, or control over the Third Party, nor does it impact the voting rights of any legitimate “Resource Member” of the Third Party.

ii. Immediate Reconstitution of the Nomination Committee

The Respondent (the Receiver) to forthwith reconstitute the Nomination Committee set up to oversee the selection of candidates for the 2025 AFRINIC Board of Directors elections by immediately removing the current Chairperson [...] and the Respondent (the Receiver) to promptly appoint new, demonstrably neutral replacements who have no prior involvement in matters related to the membership of Cloud Innovation Ltd (CIL) in the Third Party.

iii. To Publicly Document and Assess Remedial Steps

The Respondent to forthwith publicly document and communicate to all “Resource Members” of the Third Party a comprehensive assessment of the adverse impacts caused by the aforementioned

irregularities on the entire election process to date, including the integrity of the nomination period and electronic voting registration and the said assessment to be accompanied by a transparent disclosure of all specific remedial steps taken, or to be taken, to thoroughly mitigate these impacts and ensure the integrity of the remaining electoral components.

b) For such Further Orders as this Honourable Court may deem just and necessary to issue to secure the unimpeachable integrity and legitimacy of AFRINIC's electoral process and to safeguard the overarching global public interest in a stable, secure, and unified Internet, including but not limited to the re-opening of the nomination period to allow additional candidates to be nominated for the elections.

3. The case was fixed for Physical Appearance on 19 June 2025 at 10h00 for AfriNIC and its Receiver to provide their stand. The legal advisers of AfriNIC and the Receiver took note with much concern the application lodged by ICANN at the eleventh hour and the unfounded allegations contained therein.
4. AfriNIC and the Receiver informed the Court that notwithstanding the fact that ICANN, not being a Member of AfriNIC, has no *locus standi* to file any application under section 210 of the Insolvency Act 2009, especially to interfere with the election process, they still wished to address and clarify recent public statements and correspondence issued by ICANN regarding AFRINIC's governance, operations, and the ongoing receivership with the view to dispose of the present matter in a mutually satisfactory manner.
5. To this end, AfriNIC and the Receiver informed the Court that they willingly propose to publish a factual communiqué to cater for the reassurances sought by ICANN at Prayers A(i) and A(iii) above to settle the issue of classification of Cloud Innovation Ltd once and for all. However, they informed the Court that they were objecting to Prayer A(ii) as set out above (regarding reconstitution of NomCom) but again, had no issue to include in their communiqué how the NomCom was set up in the spirit of the Bylaws.
6. The Court heard all legal advisers and informed the Parties that Ruling will be delivered at 1pm.
7. AfriNIC and the Receiver are pleased to report that the Ruling reflects the stand they have taken before the Court this morning, the salient extracts of which are reproduced below:

- a. The Court recognises that ICANN had no authority (*locus standi*) to enter such an application.
- b. The Court has taken into account that AfriNIC and the Receiver are agreeable to issue a communiqué to cater for Prayers (i) and (iii) of the Motion Paper.
- c. As such, the Court found and is satisfied the said communiqué (i.e the present one) will in fact satisfy what ICANN has sought in Prayers (i) and (iii) of the Motion Paper.
- d. As regards Prayer (ii) of the Motion Paper in relation to the immediate reconstitution of the Nomination Committee which ICANN is insisting upon in spite of the communiqué, the Court found that *“it is inappropriate of ICANN and in so insisting, this will go against the objective of having a board constituted at AfriNIC and ICANN will not be acting reasonable and responsibly”*
- e. Since the Court has been informed by AfriNIC and the Receiver that there was a wrong classification of Cloud Innovation Ltd at the Registrar of Companies and the needful has been done by the Receiver to remedy this, this can no longer be a sufficient and adequate reason to hold back an election and restart the whole process regarding the organisation and holding of the election of the board members of AfriNIC.
- f. The e-voting election has already started. It is of common understanding that the holding of an election for a company with over 2000 resource members and having no functioning board is important and necessary for continuity governance and its legitimacy. AfriNIC has been operating in a vacuum without a board duly constituted and this state of affairs cannot perpetuate and can only be to the detriment of its members and the company.
- g. Mindful of the fact that all resource members should have faith and be reassured of the process of the election being held and managed fairly and freely under the supervision of the Receiver who himself has statutory duties and obligations as provided under the Insolvency Act, I find that the above communiqués should dissipate any misapprehension that the resource members could have in the organisation and holding of the election of AfriNIC.
- h. The Court there found that Prayer (ii) sought by ICANN regarding dismantling NomCom will go against the spirit and fundamentals of the holding of an election process to constitute the board of AfriNIC which will be responsible for guiding the mission of the organisation and meeting its objectives.

8. **A copy of the minutes of proceedings (including the Ruling) is enclosed to this communiqué.**

9. As per the stand taken by AfriNIC and its Receiver in relation to the ICANN case and the ensuing Ruling, AfriNIC and the Receiver hereby issue the present communiqué in relation to (i) Cloud Innovation Ltd and (ii) the setting up of the NomCom.

B. Cloud Innovation Ltd (“CIL”)

10. Insofar as CIL is concerned, AfriNIC deems it appropriate to set out the below facts in order to set the record straight, especially at this crucial juncture at the eve of the elections:

- (i) AfriNIC is a commercial entity incorporated under the laws of Mauritius as a company limited by guarantee;
- (ii) AfriNIC is governed by its Constitution and the Mauritius Companies Act 2001;
- (iii) As per AfriNIC’s Constitution, it has three categories of Members;
- (iv) It is to the knowledge of ICANN that AFRINIC has been operating without a quorate Board since 2022;
- (v) It is also to the knowledge of ICANN that between September 2023 to October 2024, AfriNIC was under the management of expired directors and registered members;
- (vi) The Supreme Court records show that in March 2023, CIL filed proceedings against AfriNIC for the appointment of a Receiver pursuant to its powers as a member entitled to be on the register of members of AfriNIC.
- (vii) In virtue of a Ruling dated the 12 September 2023 in motion bearing number SC/COM/MOT/000156/2023, a Receiver was appointed after the Supreme Court was satisfied that CIL was an entitled person within the meaning of the Mauritius Companies Act 2001;
- (viii) For the sake of completeness, under the Mauritius Companies Act 2001, the term “entitled person”, in relation to a company, means - (a) a shareholder; and (b) a person upon whom the constitution confers any of the rights and powers of a shareholder;

- (ix) ICANN is aware that the Ruling of the 12 September 2023 was appealed upon by an expired Registered Member of AfriNIC and on the 15 October 2024, the Court of Civil Appeal in Mauritius has set aside the appeal;
- (x) There has been no further appeal and the Ruling of the 12 September 2023 is final and enforceable;
- (xi) The erroneous registration of CIL at the level of the Registrar of Companies cannot be attributed to AfriNIC and the Receiver inasmuch as such registration and/or classification was undertaken by the Registrar of Companies without even waiting for any statutory formalities to be effected in that regard.
- (xii) Be that as it may, the Receiver has already taken steps to rectify this wrong classification, as evidenced by Court Order dated 11 June 2025 in SC/COM/MOT/000399/2025.
- (xiii) The name of CIL as a 'registered member' has therefore been removed from the records of the Registrar of Companies. This is further evidenced by the file summary of AfriNIC which can be viewed freely and publicly on the Registrar of Companies/CBRIS website.
- (xiv) As matters stand therefore, CIL is a Resource Member with all the powers entrusted to it pursuant to the AfriNIC constitution, at par with all other Resource Members.

C. The Nomination Committee ("NomCom")

11. Again following the stand of AfriNIC and the Receiver regarding NomCom, and the ensuing Ruling, the present communiqué serves to inform all resource members how NomCom has been set up in the spirit of the Bylaws in the absence of a board at AfriNIC.
12. In the absence of a board at the level of AfriNIC, the Receiver has a NomCom, as required under the Constitution of the AfriNIC and in line with the spirit of the bylaws. The Receiver could not choose persons from specific regions since all seats from all regions were up for election. To avoid any element of bias and/or discrimination, the Receiver preferred to appoint an independent and neutral panel.
13. The NomCom is chaired by the Honourable Simon Davenport KC, one of the most senior members of the English Bar. The other members of the NomCom have been selected by the

Honourable Simon Davenport KC after an advertisement exercise. The advertisement exercise was necessary to attract the most suitable candidates.

14. In strict compliance with the Constitution of AfriNIC, the NomCom is responsible for calling for candidates, setting eligibility criteria, reviewing and finalising the list of candidates, and supervising the conduct of the polls.
15. The NomCom works independently from the Receiver and takes decisions by majority of votes.
16. The NomCom was constituted and published widely, and there was no contest whatsoever from the Afrinic Community, the more so that the call for candidates attracted a record number of applicants and the candidates for election have been published on 09 June 2025.

D. Main takeaways from the Ruling in the ICANN case

17. The Supreme Court refused to order the dismantlement of NomCom as requested by ICANN, thereby confirming and validating the legitimacy of NomCom and its members.
18. The constant confusion created by certain members regarding the classification of CIL has been dissipated for good.
19. Following the Ruling in the ICANN case, the announcement of ICANN dated 06 June 2025 (and updated on 10 June 2025) which has been published on its website is therefore devoid of merit and unwarranted in the present circumstances.
20. We also take note that the General Counsel of ICANN has recently wrongly reported that ICANN has successfully obtained a ruling – this does not reflect the reality of court proceedings today (as depicted above) and as clearly borne out in the enclosed Ruling.
21. Any suggestion or implication by ICANN that AfriNIC is acting outside its lawful mandate is unfounded. The Receiver has acted strictly in accordance with the court's directives, and all

operational decisions have been made in line with the legal framework established by the Mauritian judiciary

22. AFRINIC remains committed to restoring full governance and operational stability in accordance with its bylaws/constitution and the directions of the Mauritian courts. We welcome constructive engagement from all stakeholders, including ICANN, provided such engagement respects the legal and judicial processes currently in place.

**IN THE SUPREME COURT OF MAURITIUS
(COMMERCIAL/BANKRUPTCY DIVISION)**

On Thursday, 19th of June 2025

Before the Honourable M J Lau Yuk Poon, Judge

Court Room No.15

(Amended Minutes)

SC/COM/MOT/000442/2025

In the matter of:



The Internet Corporation for Assigned Names and Numbers

Applicant

v.

**Mr. Gowtamsingh Dabee, FCCA ADIT MBA,
In his Capacity and position as Receiver of
African Network Information Centre (AfriNIC) Ltd (In Receivership)**

Respondent

In the presence of:

African Network Information Centre (AfriNIC) Ltd (In Receivership)

Third- Party

The matter is digitally recorded and the transcript shall be the Official court record.

Mr. E. Ribot of Counsel appears together with Mr. D. Jhurry, of Counsel for the Petitioner instructed by Mr. Attorney P. D. Lallah, who is also in attendance.

Mr. M. Namdarkhan, of Counsel appears for the Respondent and the Third- Party, instructed by Mr. Attorney N. Ramasawmy, who is also in attendance.

The Applicant is represented by its Representative, Mr. Robert Ferrat.
The Respondent is in attendance.

At this stage, Mr. R. Gulbul, of Counsel and Mr. D. Ramdhur, Attorney-at-Law appear on the floor of the Court and state that they are both representing Cloud Innovation Ltd.

Mr. R. Gulbul further states that he is not a party to this case, however he is in attendance since he is aware that the matter is coming today and that he will intervene in the present matter after Counsel have addressed the Court.

However, Mr. Ribot objects to the motion of Mr. Gulbul.
Mr. Namdarkhan however has no objection to the motion of Mr. Gulbul.

Mr. R. Gulbul, of Counsel and Mr. Attorney Mr. D. Ramdhur are allowed to appear.

At this stage, Mr. Namdarkhan imparts.

Mr. Ribot puts in the Affidavits of Mr. John LeRoy Crain, Senior Vice President and Chief Technology Officer for ICANN and of Samantha Sara Eisner, the Deputy General Counsel for ICANN.

Exchange between the bench and the bar.

**In light of all of the above, Court takes time to consider.
Case is maintained till 13hrs for Ruling to be delivered.**

Case is called anew at 13hr.
Same appearances as earlier.



At this stage, Court delivers an Oral Ruling which reads as follows:

“Notwithstanding the fact that the applicant has no locus standi to enter such an application before this Court but having regards that its objective and aim is to ensure that there is a fair and free election for the board of AfriNIC to be constituted and that ICAAN principal objective is to ensure that the global internet remains secure, stable and operative, this Court has entertained this matter. I do not however lose foresight that AfriNIC is also a non-profit organization, member-based and is a regional internet registry which is responsible for the distribution of internet number resources for Africa and the Indian Ocean region.

Having heard all counsel in the present matter and taking into account that learned counsel for the respondent and third party has informed the Court that having regards to the prayers (i) and (iii) sought from the applicant, AfriNIC will issue a communique -

- (i) to inform all resource members of the erroneous registration of Cloud Innovation Ltd as a registered member of AfriNic Ltd. AfriNIC Ltd is a company limited by guarantee, registered at the Registrar of Companies. As at date, needful has been done by the receiver to remove the name of Cloud Innovation Ltd as a registered member of AFrinic Ltd at the Registrar of Companies; and**
- (ii) to inform all resource members how the Nom Com has been set up in the spirit of the bylaws in the absence of a board at AfriNIC.**

I find and is satisfied that the said communique will in fact satisfy what the applicant has sought in prayers (i) and (iii) as per its motion paper.

However, as regards the order (ii) sought by the applicant as per the motion paper, in relation to the immediate reconstitution of the Nomination Committee which the applicant is insisting upon in spite of the communique, I find that it is inappropriate of the applicant and in so insisting, this will go against the objective of having a board constituted at AfriNIC and ICAAN will not be acting reasonably and responsibly.

Ex facie the affidavit of the applicant, the seeking of the dismantling of the NomCom is primarily linked and on the premise of the wrongful classification of Cloud Innovation Ltd registered as a member of AfriNIC at the Registrar of Companies when Cloud Innovation Ltd is simply a resource member.

Since this Court has been informed by counsel for the respondent and third party that there was a wrong classification of Cloud Innovation Ltd at the Registrar of Companies and that needful has been done by the receiver to remedy this, this can no longer be a sufficient and adequate reason to hold back an election and restart the whole process regarding the organisation and holding of the election of the board members of AfriNIC.

The e-voting election has already started. It is of common understanding that the holding of an election for a company with over 2000 resource members and having no functioning board is important and necessary for continuity, governance and its legitimacy. Afrinic has been operating in a vacuum without a board duly constituted and this state of affairs cannot perpetuate and can only be to the detriment of its members and the company.

Mindful of the fact that all resource members should have faith and be reassured of the process of the election being held and manned fairly and freely under the supervision of the receiver who himself has statutory duties and obligations as provided under the Insolvency Act, I find that the above communiques should dissipate any misapprehension that the resource members could have in the organisation and holding of the election of AfriNIC.

I therefore find that the order (ii) sought will go against the spirit and fundamentals of the holding of an election process to constitute the board of AfriNIC which will be responsible for guiding the mission of the organization and meeting its objectives.

I therefore order the respondent and AfriNIC to issue a communique by latest Friday 20 June 2025 at 1500 hours to -

- (i) inform all resource members of the erroneous registration of Cloud Innovation Ltd as a registered member of AfriNic Ltd. AfriNIC Ltd is a company limited by guarantee, registered at the Registrar of Companies. As at date, needful has been done by the receiver to remove the name of Cloud Innovation Ltd as a registered member of AfriNic Ltd at the Registrar of Companies; and
- (ii) inform all resource members how the Nom Com has been set up in the spirit of the bylaws in the absence of a board at AfriNIC.



In the light of the above, the application is otherwise set aside but I shall not order costs as I consider that all parties before me have the main objectives that AfriNIC operates fully as it should be.”

(Minutes of proceedings as per logsheet starts as from 11 00hrs to 11 13hrs and as from 13 00hrs to 13 05hrs in Court Room No.15)



Mrs. L. Drepaul
For Master & Registrar

