IN THE SUPREME COURT OF MAURITIUS

(Bankruptcy Division)

Cause No: SC/COM/PET/000508/2025

IN THE MATTER OF:

The Petition for the Winding-Up of

THE AFRICAN NETWORK INFORMATION CENTRE (AfriNIC)

A company limited by guarantee, incorporated under the laws of Mauritius

Having its principal office at 11th Floor, Standard Chartered Tower, Ebene Cybercity, Mauritius

AND

IN THE MATTER OF:

The Insolvency Act 2009 (Mauritius)

AMICUS CURIAE BRIEF

Filed by:

- Internet Governance Institutions;
- Civil Society Organisations;
- Technical Experts;
- Public Interest Advocates;
- Internet Service Provider Associations;
- Internet Exchange Point Operators in Africa,
- Chapters of the Internet Society (ISOC);
- Former directors and legal advisors of AfriNIC;
- Technical experts and engineers from Regional Internet Registries (RIRs) and national network operator groups (NOGs);

- Internet Service Provider Associations and Internet Exchange Point Operators in Africa
- National and Regional Research and Education Networks in Africa
- Leaders of African and global digital rights and Internet governance organisations;
- Renowned academic experts in the field of Internet law, infrastructure, and sovereignty;
- Internet end Users

In

Opposition to the Petition for Compulsory Winding-Up under the Insolvency Act

Coordinated by:

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INTEREST OF THE AMICI CURIAE

This Amicus Curiae Brief is respectfully submitted to the Honourable Supreme Court of Mauritius by a collective of globally recognised stakeholders in Internet governance, digital rights, technical coordination, and public interest infrastructure, in relation to the petition for the compulsory winding-up of the African Network Information Centre

(AfriNIC), currently under consideration in Cause No. COM/PET/000508/2025, filed by Cloud Innovation Ltd (Cloud Innovation) on 10 July 2025.

The undersigned amici curiae include but are not limited to:

- Chapters of the Internet Society (ISOC) across the African continent and beyond;
- Former directors and legal advisors of AfriNIC;
- Technical experts and engineers from Regional Internet Registries (RIRs) and national network operator groups (NOGs);
- Internet Service Provider Associations and Internet Exchange Point Operators in Africa
- National and Regional Research and Education Networks in Africa
- Leaders of African and global digital rights and Internet governance organisations;
- Renowned academic experts in the field of Internet law, infrastructure, and sovereignty.

Together, we represent a diverse, multistakeholder community dedicated to the open, stable, and inclusive operation of the global Internet. We offer this submission not in favour of any commercial or political entity, but in defence of the principle that public-interest infrastructure must not be dismantled through private legal instruments without adequate procedural safeguards, contextual awareness, and multilateral consideration.

We acknowledge the jurisdiction of this Honourable Court and the relevance of the Insolvency Act 2009, and respectfully submit that this matter transcends the ordinary application of corporate winding-up principles. **The legal person facing dissolution, AfriNIC is no ordinary company. It is the Regional Internet Registry for the African and Indian Ocean region, one of five globally coordinated bodies tasked with the stewardship of critical numbering resources under the Internet Assigned Numbers Authority (IANA) framework.**

As such, the subject of this petition is a non-profit transnational institution, charged with managing a vital aspect of Africa's digital infrastructure. The undersigned amici submit that the consequences of its liquidation are not confined to creditors,

shareholders, or employees, but will directly impact the sovereignty, security, and development of the African Internet ecosystem and its 1.4 billion users.

This Brief respectfully urges the Court to consider the broader legal, technical, and public interest dimensions of this petition and not grant the extreme remedy of dissolution.

A. Standing and Legal Interest of the Amici

The amici curiae bring this brief pursuant to the inherent powers of the Court to admit third-party submissions in matters of exceptional public importance. While not creditors nor respondents, the amici possess significant and direct interest in the outcome of these proceedings, as it pertains to:

- The continuity of Internet infrastructure in the public interest.
- The integrity of multistakeholder governance in Africa.
- The precedent set for how non-profit, regional institutions may be dissolved through private litigation.

We are all beneficiaries of the services of the African Network Information Centre, and our access to and use of the Internet for ourselves and our communities will be greatly harmed by the remedy requested by the remedy sought by Cloud Innovation.

Specifically:

- The Internet Society and its African chapters are internationally recognised advocates for an open, globally connected, and secure Internet, and have participated in AfriNIC's development and ecosystem since its inception.
- The Internet Service Providers associations and Internet Exchange Point Associations (AF-IX) across AFRICA, participate in AFRINIC development and ecosystem since its inception, are recipients of Internet Number Resources used in the operation of IXP's.
- National Research and Education Networks (NRENs) and Regional Research and Education Networks (RRENs) rely on AfriNIC for the allocation and maintenance of IP resources essential to research collaboration, academic connectivity and innovation infrastructure across Africa

- AfNOG and technical operators rely on AfriNIC's registry for stable routing, IP allocations, and public key infrastructure;
- Civil society and academic institutions depend on regional Internet registries to support digital rights, cybersecurity frameworks, and inclusive connectivity.
- Several signatories have either participated in or advised processes concerning ICANN, IANA transition, ICP-2 criteria, and RIR structural integrity, making them uniquely placed to inform the Court of comparative global practices.

The amici are not aligned with the current or former leadership of AfriNIC, nor do they seek to obstruct judicial authority. Instead, they submit that the liquidation of AfriNIC under the Insolvency Act must be reviewed in light of (a) the unique legal character of the entity, (b) the structural risks posed to the public, and (c) the availability of less extreme remedies.

B. Urgency and Scope of the Brief

This Brief responds directly to:

- The petition for winding-up was filed on 10 July 2025 by Cloud Innovation Ltd.
- The public notice issued in Mauritian newspapers indicates the returnable date of 24 July 2025.
- The broader factual background, including the breakdown of AfriNIC elections in June 2025, and
- The formal warning issued by ICANN's President and CEO on 25 June 2025, which cautioned that AfriNIC risks derecognition as a Regional Internet Registry if a governance solution is not achieved.

This Brief does **not contest** that AfriNIC has faced governance challenges, nor that elections have been irregular. It does, however, contest that liquidation is a legally appropriate, proportionate, or contextually just remedy.

C. Request for Consideration

The amici respectfully request that this Honourable Court:

1. Accept this Brief into the record of proceedings.
2. Take judicial notice of the public interest ramifications of dissolving AfriNIC;

3. Give due weight to the constitutional, institutional, and developmental implications of granting the petition; and
4. Consider whether judicial discretion might instead guide the establishment of a transitional oversight mechanism, underpinned by continental and international cooperation, rather than irreversible liquidation.

II. LEGAL FRAMEWORK AND PROCEDURAL IRREGULARITIES

A. On the proper role of equitable remedies in insolvency law involving public infrastructure institutions

The amici respectfully submit that the request to dissolve AfriNIC under the Mauritian Insolvency Act must be assessed with exceptional caution. The principle of equitable relief, which underlies several provisions of the Act, is not a carte blanche for dissolving institutions that play a public service role, especially in contexts where alternative remedies are available and international obligations are at stake.

Across multiple jurisdictions and through consistent judicial practice, equitable dissolution has been treated as a measure of last resort. It is traditionally reserved for irretrievable dysfunction in private commercial entities, typically following deep-seated breakdowns of trust or governance paralysis. Courts have insisted that equitable relief must not be granted to parties who contributed to the very conditions they now invoke. In *Ebrahimi v Westbourne Galleries Ltd* [1973] AC 360, for example, the House of Lords affirmed that the just remedy must follow from genuine impasse and an absence of internal alternatives.

Further, AfriNIC is not in any way a traditional private enterprise. It is the designated Regional Internet Registry for the entire African continent, tasked with the stewardship of our Internet Protocol (IP) number resources, a function foundational to the operation, resilience and sovereignty of the African Internet ecosystem. AfriNIC maintains the WHOIS database, oversees IP address allocations based on bottom-up policy development, supports the deployment of newest version of IP addresses, IPv6, with the trillions of new IP addresses we will need in the future, and upholds routing security standards essential to cross-border digital continuity.

In its formal communication to the authorities of Mauritius dated 16 July 2025, ICANN underlined that AfriNIC's operational mandate is intrinsically linked to global coordination and technical trust. **Dissolving the Registry without exhausting all restructuring and governance remedies would not only destabilize Africa's Internet infrastructure, but also undermine the legitimacy and functionality of the global Internet number registry system.**

Furthermore, judicial dissolution should not serve as a mechanism to resolve disputes that remain politically or technically open. Since 2021, AfriNIC has been subjected to a protracted wave of litigation initiated by the petitioner. These legal challenges have targeted internal processes, delayed electoral outcomes, and disrupted financial and administrative operations. Yet rather than being signs of fatal dysfunction, many of these interruptions are the direct result of that litigation campaign itself. In equity, one cannot set fire to an institution and then plead for its demolition on the grounds that it is no longer habitable.

This Court is therefore asked not merely to evaluate procedural irregularities, but to consider the unique nature of the institution in question. AfriNIC is an integral part of a global governance chain that includes ICANN, IANA, and other four Regional Internet Registries. It does not exist in isolation and cannot be replaced by ordinary market substitutes. Its dissolution would leave a critical void in the management of IP address space across more than fifty African countries, with ripple effects felt by service providers, governments, and end-users alike.

The current receivership ordered by this Court is functioning. A revised electoral timeline is in place. There is clear international engagement and technical support for stabilization. **In this context, invoking equitable remedies to dissolve AfriNIC would not meet the threshold of necessity.** It would preempt the outcome of ongoing remediation, and it would contradict the very principle of equity, which requires that relief be proportional, fair, and in the public interest.

Equity, in the tradition of common law, is not blind to context. It is rooted in conscience, balance, and a duty to preserve what can still be repaired. The amici respectfully urge the Court to uphold that tradition by declining the petition and allowing recovery to proceed under supervision, rather than opting for finality at the cost of institutional ruin.

B. The petitioner's conduct and the principle of equitable relief

It is a well-established doctrine of equity that a party seeking relief from the Court **must approach with clean hands, in good faith, and without having materially contributed to the state of affairs for which judicial intervention is sought**. This principle is particularly important where the remedy requested is exceptional, final, and irreversible, such as the judicial winding-up of an institution performing a public function. In such matters, courts are not merely arbiters of legal entitlements but guardians of equitable discretion, obliged to weigh not only the letter of the law but the conduct and motives of those who invoke its power.

In the present matter, the petitioner, **Cloud Innovation Ltd, has been at the center of a sustained and deliberate campaign of litigation and institutional attrition against the African Network Information Centre (AFRINIC), the sole Regional Internet Registry (RIR) for the African continent.** Since 2021, Cloud Innovation has initiated or been party to at least twenty-five separate legal proceedings against AFRINIC in the jurisdiction of Mauritius. **These lawsuits have spanned procedural challenges, commercial disputes, governance interferences, and reputational matters. Among them was a defamation suit seeking damages of eighty (80) million United States dollars, and an ex parte application that resulted in the freezing of AFRINIC's bank accounts up to an amount of fifty (50) million United States dollars**. Although the actual assets were significantly less, the practical impact was to paralyze AFRINIC's operations for several months, during which the organization was unable to meet its most basic financial obligations, including the payment of staff salaries and critical service providers.

This legal campaign has had cascading consequences. In June 2022, following continued litigation involving the petitioner and its allies, this Honourable Court held that AFRINIC's board of directors had been improperly constituted due to the lack of a functioning quorum and ordered its dissolution. The organization has since remained without a properly reconstituted board or a Chief Executive Officer. The CEO's contract expired in November 2022 and could not be renewed, not due to any failure of AFRINIC's internal processes, but because of its legal incapacity to act under the circumstances manufactured through litigation. The absence of leadership, combined with frozen assets and constant legal exposure, has resulted in the near-collapse of AFRINIC's administrative and operational capacity.

These developments cannot be viewed as coincidental or organic. They are the product of an orchestrated strategy designed to destabilize the institution. The petitioner's conduct extends beyond litigation. **Affiliated entities, including the Number Resource Society (NRS), have disseminated misleading public narratives, promoted disinformation about internal elections, and publicly advocated for the replacement of AFRINIC's multistakeholder structure with a fully market-based system of IP address allocation.** Several Internet community members have been targeted with defamation threats for expressing concerns about these developments, including through cease and desist letters sent for merely sharing hyperlinks to articles critical of the petitioner. **Evidence has also emerged of attempts to subvert electoral processes through the illicit purchase of access credentials to AFRINIC member accounts.**

Courts have repeatedly refused to allow parties to benefit from conduct that is inconsistent with good faith. In *Mann v. Goldstein* [1968] 1 WLR 1091, the English High Court rejected a winding-up petition that had been presented in the context of a commercial dispute. Ungoed-Thomas J held that the petitioner had used the threat of dissolution not as a legitimate legal remedy, but as a tool of pressure in an unrelated commercial conflict. Similarly, in *Re A Company (No. 006685 of 1996)* [1997] 1 BCLC 639, the Court held that judicial mechanisms must not be used to obtain leverage in private disputes under the guise of pursuing remedies of last resort. These decisions reflect a fundamental rule of equitable jurisdiction: when a petitioner contributes to the creation of the very harm they later cite as justification for extraordinary relief, the Court is entitled, indeed obligated to deny such relief in the interest of justice.

The present case falls squarely within this principle. The record demonstrates that the operational paralysis now presented as evidence of AFRINIC's institutional failure is inseparable from the petitioner's own actions. The freezing of assets, the judicial delays in confirming directors, the inability to renew leadership contracts, and the persistent reputational attacks are all consequences of a calculated legal strategy. Far from being a victim of dysfunction, the petitioner has been its principal architect.

This analysis is supported by the letter issued by the Internet Corporation for Assigned Names and Numbers (ICANN) on 16 July 2025, addressed to the Government of Mauritius and other relevant authorities. ICANN, as the global steward of the Internet's unique identifier systems, made clear that the administrative and financial distress currently confronting AFRINIC arises not from internal mismanagement, but from the

prolonged and multifaceted interference of Cloud Innovation and its affiliates. **ICANN further emphasized that AFRINIC is not a commercial enterprise, but a public-interest institution that fulfills a global technical function as one of the five Regional Internet Registries recognized by the international Internet governance framewor**k. The consequences of destabilizing such a body are far-reaching and extend well beyond the territory of Mauritius.

To grant liquidation under these circumstances would be to reward a party whose hands are not clean, and whose objectives appear incompatible with the public interest. It would create a precedent wherein institutional capture could be achieved not through democratic process or policy consensus, but through procedural overload and reputational attrition. It would also undermine global confidence in Mauritius as a stable and neutral host jurisdiction for regional and international organizations. The amici respectfully submit that the integrity of equitable jurisdiction, the principle of clean hands, and the overriding public interest in safeguarding Africa's Internet infrastructure all weigh decisively against granting the remedy sought. This Court is urged not only to consider the current condition of the institution, but to examine with careful scrutiny the conduct of the party seeking to dismantle it.

C. Prematurity of the petition in light of disputed facts and ongoing remediation

At the core of this matter lies a set of unresolved events whose legal and factual implications remain actively under consideration. The annulment of the 2025 board elections, following credible allegations of forgery and misuse of powers of attorney, has triggered an institutional process of correction that is not only ongoing but sanctioned by the Court itself. Several member organizations, including Emtel and ISPA, have publicly denounced the unauthorized use of their mandates during the voting process. In response, the Receiver appointed by the Court suspended the election, undertook a review of the disputed proceedings, and established a clear path toward a new vote to be held before the end of September 2025.

This sequence demonstrates that AfriNIC is not a failed institution, but rather one undergoing internal rehabilitation under judicial supervision. The very existence of an open and transparent electoral roadmap, together with the continued engagement of stakeholders, points to the availability of corrective remedies. Courts have long held

that in cases where facts remain contested, and where institutional processes for resolution are in motion, final remedies such as dissolution must be deferred.

In *Re London School of Electronics Ltd* [1986] Ch 211, the court emphasized the inappropriateness of liquidation in circumstances where alleged misconduct had not been definitively adjudicated and where internal remedies remained viable. That reasoning applies with equal, if not greater, force to AfriNIC, an entity that not only maintains transnational responsibilities but also operates within an intricate web of global coordination, technical continuity, and community accountability.

Moreover, the factual disputes in question are not incidental; they go to the heart of AfriNIC's operational legitimacy. If members were indeed disenfranchised through forged documents, then the annulment of the election and the initiation of a revised process represent both a legal necessity and an ethical imperative. That process is underway, guided by the very judicial authority now being asked to consider liquidation. **To intervene with a final and irreversible remedy at this juncture would effectively preempt the Court's own supervisory framework and dismiss the institutional capacity for recovery.**

ICANN's correspondence to the Mauritian authorities, dated 16 July 2025, clearly outlines the importance of respecting the procedural timeline currently in effect. It expresses concern that a liquidation order would truncate a reform process that has garnered support from a wide array of regional and international actors. The letter further emphasizes that contested elections, while serious, are not uncommon in governance institutions, and do not, in themselves, justify termination. **Rather, what matters is the response: whether the institution is capable of introspection, redress, and reorganization.**

AfriNIC is currently demonstrating all three. It is not resisting oversight, nor denying its past failures. Instead, it is operating under court-appointed receivership, pursuing a revised electoral calendar, and re-engaging its membership. The threshold for judicial intervention of a terminal nature must be higher than procedural delay or reputational harm. Premature dissolution would not only disregard the present course of remediation but risk institutionalizing instability as the price of disruption.

The amici therefore respectfully submit that in light of the ongoing corrective measures, the unresolved factual matrix, and the legitimate expectations of the regional and global Internet communities, this petition is untimely. The Court must allow due process to unfold and resist any attempt to collapse reform under the weight of haste.

D. AfriNIC's sui generis character as a public infrastructure institution

AfriNIC is not a private commercial entity subject to conventional market competition or shareholder expectations. It is a Regional Internet Registry mandated to manage the allocation and registration of Internet number resources, specifically, IP addresses and Autonomous System Numbers, for the entire African continent. This mission is not only technical, but fundamentally public in nature. AfriNIC performs a stewardship function that underpins critical digital infrastructure, ensures interoperability with global systems, and upholds the principle of an open and secure Internet for more than fifty countries in Africa.

The Registry's core responsibilities include maintaining the accuracy of the WHOIS database, implementing community-driven resource allocation policies, supporting IPv6 deployment, enabling Routing Public Key Infrastructure (RPKI), and facilitating Internet routing security. These tasks are neither incidental nor replaceable. The reliability of digital identity, cybersecurity frameworks, national Internet exchanges, and cross-border digital services all depend on AfriNIC's operational integrity. **Its collapse would compromise not only the internal coherence of Africa's Internet ecosystem, but its seamless integration into the global Internet.**

Further, AfriNIC is committed to its non-profit mission within its Bylaws, specifically Article 3.2, which stipulates that its income and capital shall be applied solely toward the promotion of its public-interest objectives, and not distributed to members by way of dividends or bonuses.

Unlike commercial firms, whose insolvency may lead to substitution by market actors, AfriNIC occupies a singular position. There is no competitive alternative to a Regional Internet Registry. Its role is grounded in global Internet governance frameworks, notably the multistakeholder model recognized by organizations such as ICANN and the Internet Engineering Task Force. The failure of a single RIR would affect the chain of

trust in global IP address allocation and impair the technical and legal coordination with IANA and the four remaining RIRs.

The systemic nature of this risk has been acknowledged in international precedent. In *Re Nortel Networks UK Ltd* [2013] UKSC 52, the United Kingdom Supreme Court emphasized that insolvency proceedings involving infrastructure with broad public implications must be approached with caution, considering not only the rights of creditors but also the continuity of service and the preservation of the public interest. AfriNIC's case, while not identical, presents comparable concerns. It is embedded in a global architecture whose balance depends on the continuous and uninterrupted functioning of each node.

ICANN's letter to the Mauritian authorities dated 16 July 2025 underscores these dangers with clarity. It warns that the judicial liquidation of a Regional Internet Registry would be unprecedented, destabilizing, and potentially irreparable. It emphasizes that AfriNIC is not a company in the conventional sense, but a custodian of a scarce and strategic resource. The letter notes that its operational existence is the result of a global consensus and serves as a foundational layer for the African digital economy. No other RIR has ever been subjected to judicial liquidation, even in moments of internal crisis. The risks of creating such a precedent cannot be overstated.

Furthermore, the dissolution of AfriNIC would generate an institutional vacuum with no clear mechanism for continuity. Questions would arise as to who would hold and maintain the resource registry, who would validate routing certificates, and who would support law enforcement and cybersecurity actors in IP attribution? The absence of these functions would severely impair African states' ability to enforce their digital sovereignty, respond to cyber threats, and ensure service continuity in vital sectors. It will also impede the ability of IXPs, ISPs, telecommunication companies, NGOs and companies across the continent to rapidly obtain IP addresses for their growth and expansion.

This Court is not merely faced with the collapse of a private entity, but with a case that implicates the technical, legal, and political architecture of the Internet in Africa and beyond. The principle of proportionality demands that any remedy must match the nature of the institution and the scale of its functions. AfriNIC is not simply an organization. It is an anchor institution at the heart of the digital commons.

The amici respectfully submit that dissolving such a body, while reform remains ongoing and stakeholder engagement remains active, would constitute not a solution, but a rupture. The rule of law must be a vehicle for restoring institutional continuity, not extinguishing it. The sui generis nature of AfriNIC requires that it be treated not as a company among others, but as a vital public infrastructure deserving of enhanced protection and calibrated remedies.

E. Public interest and the path forward

The amici respectfully submit that the petition to dissolve AfriNIC must be approached with the utmost caution. AfriNIC is not a commercial entity in distress; it is a public-interest infrastructure embedded in the very fabric of Internet coordination across Africa. Its continuity is indispensable for the stability, trust, and technical functioning of the global Internet ecosystem. Dissolution, in this context, is not merely a legal remedy, it is an act with far-reaching implications for more than fifty nations and the integrity of transnational governance frameworks.

While the petitioner points to dysfunction and institutional deadlock, these conditions are neither terminal nor irreversible. The Court-appointed Receiver has initiated a process of remediation, with a new electoral timeline in motion and internal reforms underway. These developments illustrate that AfriNIC remains capable of institutional repair and that the judiciary retains tools short of liquidation to support this recovery. No less than the Internet Corporation for Assigned Names and Numbers (ICANN) has urged restraint in its communication of 16 July 2025, stressing that the technical and policy implications of liquidation would be unprecedented and destabilizing.

Comparative practice reinforces this perspective. Regional Internet Registries and similar governance bodies facing internal turmoil have resolved crises through oversight, negotiation, and reform, not judicial termination. The amici therefore urge that dissolution be considered only when all other remedies have demonstrably failed, and when public trust and technical continuity can no longer be sustained through restructuring. That is not the case here.

The record shows that AfriNIC remains structurally functional. It maintains critical databases, engages its community, and participates in the global coordination of IP number resources. The pathway forward includes a revised electoral process,

community re-engagement, and the possible supervision of additional reforms through the very Court now seized of this matter. These are not speculative options but tangible processes already underway.

To order dissolution at this stage would be not only premature, but disproportionate to the realities on the ground. It would fracture institutional memory, interrupt resource allocation, and weaken continental digital sovereignty. Moreover, it would set a precedent that endangers other technical institutions whose mandates transcend borders and whose survival depends on a reasonable margin of error for internal correction.

For all these reasons, the amici respectfully urge this Honourable Court to deny the petition. The legal principle of equity, invoked throughout the Insolvency Act and reflected in decades of jurisprudence, demands measured response where the facts remain contested and viable remedies remain on the table. This is a moment not for irreversible remedies, but for responsible stewardship.

The future of African Internet governance cannot be written in the margins of a liquidation order. It must be shaped through reform, dialogue, and judicial wisdom that recognizes the singular nature of the institution before the Court. AfriNIC is not beyond repair. It is a registry under pressure, not a company without purpose. Liquidation would not solve the problem. It would become the problem. The amici rest their case in trust that justice will not only be done, but be seen to preserve what still serves the public good.

THE RISKS OF LEGAL ABUSE AGAINST DIGITAL INFRASTRUCTURE

A. AfriNIC is not a business, it is a public utility in the digital age

AfriNIC performs no profit-driven commercial function. Its revenue model is based not on sales or market competition but on a modest fee structure meant to support operational continuity for a continental registry. Its purpose is technical coordination, not capital accumulation. In that regard, AfriNIC is more akin to a public water board or an electricity grid operator than to any private company. It supplies what might be termed “digital oxygen”, the numerical identifiers that allow African countries, companies, institutions, and individuals to connect to the global Internet.

Courts across jurisdictions have long recognized that certain entities, though established under company law, serve such fundamental roles in society that they cannot be assessed solely on balance sheets or shareholder returns. In *Telstra Corporation v. Worthing* [1999] FCA 1743, the Australian Federal Court emphasized that a telecommunications carrier could not simply withdraw or suspend service based on commercial considerations when public service obligations were at stake. Similarly, in the UK case *National Grid Company v. Gas and Electricity Markets Authority* [2002] EWCA Civ 1149, the Court of Appeal noted that infrastructural entities must meet continuity and service obligations irrespective of financial risk, as their role underpinned the stability of a national system.

AfriNIC's mission mirrors this logic. Its databases, including the WHOIS database, provide authoritative information used in cybersecurity tracing and abuse resolution by law enforcement, network operators, and regulators. Its **Resource Public Key Infrastructure (RPKI)** services are designed to cryptographically validate **Border Gateway Protocol (BGP)** announcements, helping to prevent route hijacks and ensuring the integrity of Internet traffic routing across Africa. Its allocations are the basis upon which national operators, universities, and Internet exchange points plan their network architecture. Disruption at AfriNIC is not a business event. It is a threat to the digital fabric of Africa.

Liquidating a public utility does not merely end an institution. It endangers every dependent system. The Court must take this into account, especially given that no immediate, technically coordinated or legally recognized alternative currently exists to assume AfriNIC's role in Africa and the Indian Ocean.

B. AfriNIC's legal role aligns with global public interest registry models

Around the world, digital infrastructure bodies that serve transnational coordination roles such as domain name registries, technical protocol managers, and numbering authorities, operate under the logic of public interest registries. One well-known example is Public Interest Registry (PIR), the nonprofit operator of the .ORG top-level domain. Like AfriNIC, PIR was created to manage a resource that serves global civil society and noncommercial stakeholders, in this case, domain names. Despite being legally a corporation, its charter, functions, and oversight mechanisms enshrine its role as a custodian, not a business actor.

When the Public Interest Registry (PIR)was faced a controversial attempted sale to private equity firm named Ethos Capital in 2019, there was a public backlash and legal concerns led the Internet Corporation for Assigned Names and Numbers (ICANN) to withhold approval, citing that the sale was not in the public interest. The decision was grounded not in shareholder law but in principles of community stewardship, stability, and the prevention of institutional capture. This precedent supports the idea that infrastructure institutions in digital governance should be protected from private takeover, even when legal ownership might suggest otherwise.

AfriNIC is, in many ways, even more critical to the Internet infrastructure than PIR as one of many domain name registries. IP addresses are finite, hierarchical, and non-transferable without approval. Their allocation to Internet Service Providers, who in turn share with smaller ISPs, and large companies and organizations, must follow regional policy, transparency, and operational consistency. If PIR cannot be sold to private entities because of public interest concerns, then AfriNIC surely cannot be judicially dismantled at the request of a private litigant acting in self-interest.

To equate AfriNIC to an ordinary corporation is to ignore the global consensus that such entities, Regional Internet Registries (RIRs), though housed within national jurisdictions, serve supranational roles. RIRs are part of the connective tissue of the Internet itself. Their legitimacy flows from community trust, not market power. And their continuity is essential to the health of global networks.

C. The rule of law cannot be a weapon against the public interest

The amici are deeply concerned that the rule of law, a pillar of democracy and justice, is being used here not as a shield but as a sword. The legal instruments of procedural dissolution, typically intended to address commercial insolvency or corporate fraud, are being applied in this case to a public interest institution whose only crime has been its resistance to regulatory capture.

Cloud Innovation is but one member of AfriNIC's 2000-plus strong community. It has received significant address allocations and now wishes to enforce its will through judicial liquidation. If the Court grants this request, it will establish a precedent that any resource member, acting alone and with sufficient resources, can hijack a public utility if it does not obtain favorable outcomes through policy or election processes. The

implications are grave. This would be akin to allowing a single customer of a public telecom provider to litigate the closure of the entire regulator because they disagreed with spectrum pricing.

Moreover, Cloud Innovation's tactics, including parallel lawsuits, injunctions, and procedural bombardments have been the primary cause of AfriNIC's current operational paralysis. It is now attempting to convert that paralysis into justification for full dissolution. This is the legal equivalent of lighting a fire and then asking the court to demolish the building because it is burning.

The Honourable Court must reject this logic. Rule of law does not mean rule by litigation. It must be tempered by equity, context, and the greater good. This Court is not merely an arbiter of process; it is a steward of public interest. When infrastructure is at stake, justice must look beyond statutes and into the long-term consequences of institutional loss.

D. Sovereignty and stability must prevail over opportunistic commercialism

AfriNIC was built by African stakeholders to serve African needs. It embodies the principle of digital sovereignty allowing a region historically underrepresented in global technical governance to manage its own Internet number resources. If this Court permits its liquidation, it will not only erase that sovereignty but signal to the world that regional Internet institutions in Africa can be dismantled through pressure, delay, and well-funded litigation.

We note that Cloud Innovation is not accountable to the African public. It is not answerable to national regulators, African Union institutions, or the regional Internet community. Its interests are commercial, its logic is transactional, and its conduct has often been adversarial. This does not invalidate its rights, but it does place a burden on the Court to ask whether such a party should be allowed to decide the fate of a critical public interest for the African continent. We think it should not.

THE LEGAL AND INSTITUTIONAL RISKS OF DISSOLVING A REGIONAL PUBLIC RESOURCE

A. The role of the Court in protecting institutions serving public interest and digital sovereignty

The Honourable Court is now seized of a matter of exceptional significance, not only for the parties before it, but for the future of Internet governance across the African continent. The petition to dissolve AFRINIC arises amidst prolonged governance instability, which has been caused in large part by the actions of Cloud Innovation. These disruptions are not mere internal failings but the outcome of a sustained effort by a private actor to weaken a public-interest institution. The Court's task is therefore not only to assess AFRINIC's condition, but to carefully examine the source and intent of the pressures that have brought it to this point.

AfriNIC is not a conventional corporate body. It exists as the Regional Internet Registry (RIR) serving Africa and the Indian Ocean, a mandate grounded in the stewardship of critical public resources, namely Internet Protocol (IP) addresses. These numeric identifiers are not commodities to be sold freely on the open market; they are essential digital infrastructure components that enable online connectivity, economic development, research, emergency services, and government communication across borders and ultimately belong to the African community.

Courts across the world have historically exercised restraint when asked to dissolve institutions that serve a foundational public role. Even where internal dysfunction has been acknowledged, the judicial preference has consistently leaned toward reformation, not termination. To proceed otherwise would risk setting a precedent whereby the continuity of public infrastructure becomes vulnerable to adversarial litigation by individual companies, rather than safeguarded by the rule of law for all. The Honourable Court is therefore called upon to assess not only the letter of the Insolvency Act, but its application in cases involving organisations whose collapse will affect millions of users and the functioning of our digital economies continent-wide.

B. On the conduct of stakeholders and the balance of responsibility

The Honourable Court will be aware that among the root causes of the current difficulties lies a prolonged series of disputes between AfriNIC and one of its members, Cloud Innovation. These disputes have resulted in extended legal proceedings across multiple jurisdictions, placing a heavy burden on the registry's operations and its

ability to fulfil its continental mandate. While the right of any member to seek redress is respected, it is important to consider whether the cumulative effect of such proceedings has created an imbalance in the registry's ability to govern itself effectively.

It is acknowledged that Cloud Innovation is a longstanding and active resource member. However, its role in the escalation of litigation, including injunctions that delayed board elections and emergency motions that challenged voting processes, has raised significant concerns across the global technical and governance communities. The current request to liquidate the registry, presents the Honourable Court with a sensitive question: should the procedural actions of a single member, even if undertaken within the law, be allowed to justify the dissolution of a continental institution?

This question does not imply impropriety, but invites a broader reflection on proportionality and responsibility. The legal system must always allow for the resolution of disputes, but it must also be cautious not to allow that process to undermine the survival of institutions designed to serve the public interest. The liquidation of AfriNIC would not merely affect the petitioner and the registry. It would dismantle a key pillar of digital governance in Africa.

C. Liquidation is neither a proportionate nor sustainable remedy for a continental public registry

Finally, the Honourable Court is urged to consider that the function AfriNIC performs cannot be easily replaced or replicated. The allocation of IP resources is not a task that can be handed to a commercial entity or delegated to a foreign jurisdiction without significant legal, technical, and geopolitical consequences. AfriNIC's position as one of five global RIRs is recognised by international stakeholders including the Internet Corporation for Assigned Names and Numbers (ICANN) and the Number Resource Organization (NRO). Its presence in Mauritius is a symbol of African regional autonomy, digital coordination, and multistakeholder governance.

Liquidation is, in essence, a final act. It must be reserved for situations where no alternative exists and where the public interest is no longer served by institutional continuity. In the case of AfriNIC, the opposite is true. The registry still performs vital functions. It still serves thousands of resource holders including Internet Service Providers throughout the continent. It still protects hundreds of millions of African

users who depend on secure, verifiable IP address allocations and the digital services they provide. While reform is clearly needed, and support for such reform is widespread across the community, liquidation would remove not just the institution, but the very foundation on which reform can occur.

For these reasons, the undersigned respectfully request that the Honourable Court exercise judicial restraint and consider remedies that preserve the essential structure and purpose of AfriNIC, even as legitimate concerns about its governance are addressed through appropriate channels. To do otherwise would risk handing over the future of Africa's Internet infrastructure to external forces whose interests may not be aligned with the principles of community stewardship, transparency, and regional development and who would not be African stakeholders.

A STRONG CASE FOR PROPORTIONATE REMEDIES AND THE SAFEGUARDING OF AFRICA'S DIGITAL INSTITUTIONS

A. The responsibility of courts to preserve institutions that serve the common good

The Honourable Court has before it not a typical commercial winding-up petition, but a matter involving an institution of immense public significance. AfriNIC is the African Regional Internet Registry. While its legal status may fall within the category of a company, its income or capital go solely to its operation, mission and the African Internet community. Its function transcends the private realm. It acts as a steward of critical Internet number resources for more than fifty countries. Its technical coordination services ensure the functionality of networks that support hospitals, banks, universities, government ministries, and community Internet providers.

Winding up AfriNIC would not merely affect the rights of its members. It would break a critical link in a global chain of coordination and stability. The impact would extend to every African citizen who depends on stable Internet access. This Court has the discretion to consider these wider implications. It may rightly assess whether liquidation, though available in law, is suitable in the circumstances.

The principle of proportionality is embedded in law not just to prevent excessive remedies but to encourage preservation where recovery is possible. AfriNIC is

operational. Its registry continues to function. Its technical database is intact. Its staff remain at post. Its community, though fractured, is still engaged. These are the signs not of an entity in ruin, but of an entity in distress. And courts in jurisdictions across the world have historically declined to liquidate public service entities facing temporary dysfunction. Instead, they have imposed temporary supervision, ordered internal audits, and facilitated member-led reform.

As this Court has wisely found, errors can and should be remedied. In light of the Court-ordered work already being done, the current filing should not lead to institutional destruction. Especially not when that destruction would endanger a continental public interest developed over decades through consensus and community ownership.

B. International examples favour reform and judicial supervision over dissolution

In several other regions, institutions with a mandate similar to AfriNIC's have encountered challenges. The Latin American registry, LACNIC, and the Asia-Pacific registry, APNIC, have each faced disputes over governance, transparency, and elections. None of these cases led to the erasure of the registry. Instead, reform processes were introduced under community oversight. The public mission remained intact, and the regional Internet infrastructure was protected.

Likewise, when the Public Interest Registry responsible for the .org domain faced governance threats, courts and global stakeholders intervened to prevent capture, not to dissolve the institution. The same logic applies in financial and energy regulatory bodies across the world. Courts have acknowledged that even when performance falters, or procedural irregularities arise, institutions that hold public mandates must be guided to reform, not sent to termination.

In this case, the breakdown in AfriNIC's governance was accelerated by a single actor pursuing sustained litigation for individual benefit. But the presence of one determined petitioner does not negate the value or need for the institution as a whole. The judicial system must not be turned into a mechanism for the strategic dismantling of digital infrastructure by one interested party. If allowed to proceed, this case would set a

precedent that any well-funded party could collapse public coordination bodies through procedural escalation and legal fatigue.

Therefore, this Honourable Court is respectfully urged to protect the larger interest. It may impose appropriate conditions. It may instruct a supervised reform timetable. But it need not destroy what can still be repaired. The Internet governance ecosystem in Africa, and indeed globally, will take this Court's ruling as a signal of whether the rule of law can also be a guardian of digital public interest.

C. One dispute must not override the rights of all members and the needs of a continent

It bears repeating, though with caution and respect, that the petitioner is a single member among over two thousand in AfriNIC's registry. That member, a foreign-registered company, received extensive blocks of valuable Internet Protocol addresses between 2013 and 2016. Its subsequent legal disputes with the registry, though protected by the right of access to justice, have consumed institutional energy and paralysed electoral functions. It now seeks to end the registry itself.

To grant such relief would be to turn equity on its head. Public infrastructure, once weakened, cannot be made stronger by being extinguished. The petitioner's grievances may be legitimate. But their resolution should take the form of specific redress, regulatory correction, or electoral reform, not the termination of a critical African institution.

This Honourable Court is not bound to accept a false equivalence between procedural flaws and institutional death. It can affirm that the African Internet community, like any other, deserves space to recover. The collapse of AfriNIC would not simply be the closing of a company. It would signal the loss of a community-built platform for technical sovereignty, cooperation, and trust.

The petitioner has suggested that no credible election can be held. But that is not a matter of legal impossibility. It is a question of process and oversight. With strengthened verification, judicial guidance, and the support of regional stakeholders, elections can be re-run and governance restored. Liquidation should be a last resort in

law. Here, it would be an irreversible blow delivered prematurely, not a measured response proportionate to the underlying failures.

CONCLUSION AND RECOMMENDATIONS TO THE HONOURABLE COURT

The amici respectfully request that this Honourable Court reject the petition to dissolve the African Network Information Centre (AfriNIC). This matter extends beyond a commercial dispute. It concerns the fate of a continental institution that plays a foundational role in the technical functioning of the Internet across Africa and the Indian Ocean region. AfriNIC is not simply a company dedicated to its mission. It is a vital coordination body that ensures that hundreds of millions of people, institutions, and governments can communicate, operate networks, and participate in the digital economy.

The amici urge the Court to consider that AfriNIC is not failing in its mission due to insolvency in the traditional sense. Rather, its challenges stem from sustained legal and procedural disruptions, many of which were triggered or exacerbated by the very party seeking its liquidation. Despite these pressures, AfriNIC remains operational. It continues to allocate Internet number resources, manage the database, and provide essential services to its members and the public.

This Honourable Court now has the opportunity to issue a decision that will resonate far beyond the borders of Mauritius. The question before the Court is not simply whether a legal entity should be wound up. It is whether Africa's only Regional Internet Registry, an institution with a clear public interest mandate, should be terminated through private litigation. It is whether the guardianship of public digital infrastructure should be sacrificed to procedural exhaustion.

The amici respectfully submit that this Court can rise to this occasion by recognising AfriNIC as a unique continental institution. Its value lies not only in its registry function, but in its contribution to digital sovereignty, technical stability, and regional cooperation. In light of this, the amici offer the following recommendations:

1. That the Honourable Court formally recognise AfriNIC as a regional public interest institution whose core mission supports essential services across Africa. Such recognition would reflect AfriNIC's role in ensuring Internet functionality

for banks, hospitals, universities and government agencies, and affirm the principle that certain digital infrastructures serve a public utility function beyond commercial character.

2. That the Court decline to grant the relief of liquidation and instead adopt a remedial approach aimed at institutional rehabilitation. The Court may, in the exercise of its discretion, order a regime of judicial oversight or supervised governance reform. This may include the appointment of a neutral expert to oversee a transparent election process and restore institutional credibility.

3. That any legal grievance raised by the petitioner be considered within the existing framework of due process, including financial claims, access to voting rights, and questions of governance procedure. These claims, however legitimate or contested, should not be used as a reason to erase an institution that serves an entire continent.

4. That the Court seize this moment to establish guiding principles for the treatment of public interest Internet institutions in future cases, by affirming that such bodies, even when registered as companies, must be afforded a higher standard of judicial protection. The ruling would contribute to the emerging legal doctrine that places certain digital coordination functions within the category of public interests.

In taking these steps, the Honourable Court would not only preserve an essential regional institution. It would also issue a signal of judicial prudence and foresight to the broader international community. It would affirm that Africa's digital foundations deserve the same respect and protection that courts have afforded to public broadcasters, civil aviation authorities, and utility regulators.

The amici are fully aware that the Court does not act on sentiment, but on reason and law. It is precisely in that spirit that this brief has been submitted. The law permits this Court to seek solutions that prevent permanent harm, ensure continuity of service, and safeguard the general interest. AfriNIC, though currently facing difficulties, remains viable. Its staff remain at post. Its technical systems continue to operate. Its members, both longstanding and new, are engaged in restoring trust and order.

In conclusion, the amici invite this Honourable Court to decline the invitation to extinguish what the continent has built through consensus, community, and time. We respectfully request that the Court stand with the principles of proportionality, institutional preservation, and digital sovereignty. In doing so, the Court will not only resolve the case at hand. It will contribute to the jurisprudence of a continent that seeks not only to connect to the Internet, but to govern its digital resources with dignity, fairness, and resilience.

Filed this 23th day of July 2025

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71. African Internet Rights Alliance
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77. Zamani Telecom, Niger
78. House of Africa (Chad)
79. Media Rights Agenda (MRA)
80. Community NetHUBs Africa
81. Aviation Africa Plate-Forme
82. Internet exchange Point of Nigeria (IXPN)
83. Nigerian Network Operators Group(ngNOG)
84. Nigerian Peering and Interconnection Forum(ngPIF)
85. AfICTA - Africa ICT Alliance
86. DigiSphere Centre for Digital Creativity (DCDC)
87. ONG Women Be Free (Bénin)
88. Africa Cybersecurity Magazine
89. CyberSpecror Cloud
90. Africa Open Data and Internet Research Foundation (AODIRF)
91. ITREALMS Media
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