

INDEPENDENT REVIEW PROCESS

INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

GCCIX, W.L.L., ) ICDR CASE NO. 01-21-0004-1048  
 )  
Claimant, )  
 )  
and )  
 )  
INTERNET CORPORATION FOR ASSIGNED )  
NAMES AND NUMBERS, )  
 )  
Respondent. )  
\_\_\_\_\_ )

**DECLARATION OF FATIMA AL ALI IN SUPPORT OF  
ICANN’S MOTION TO DISMISS**

I, Fatima Al Ali, declare as follows:

1. I am a Partner at the law Firm Hassan Radhi & Associates, Kingdom of Bahrain, which was originally established in 1974 as Hassan Radhi Law Office and was later converted into a partnership with eight partners. The address of the Firm is P.O. Box 5366, Era Building, Diplomatic Area, Manama, Kingdom of Bahrain. The Firm’s office telephone number is +973-17535252 and its fax number is +973-17533358. The Firm’s website is [www.hassanradhi.com](http://www.hassanradhi.com) and I can be contacted by e-mail on [fatima.alali@hassanradhi.com](mailto:fatima.alali@hassanradhi.com) or the Firm’s central mailbox [info@hassanradhi.com](mailto:info@hassanradhi.com).

2. I received my degree in Law, with concentration in Business Law, and a Minor in Economics from the University of Carleton in Ottawa, Canada in 2009. In 2022, I received my Master’s Degree in International Dispute Resolution from Queen Mary’s

University of London.

**3.** I am licensed to practice law in the Kingdom of Bahrain, and have actively practiced since July 2009, providing Bahraini legal services to clients including provision of legal advice, company incorporation, restructuring, mergers and acquisitions and liquidation, and representation of clients in litigation and arbitration. I have provided Bahraini expert law opinion in international arbitration cases as well as factual witness reports on Bahraini court proceedings.

**4.** I have a number of publications on topics relating to Bahraini laws including Doing Business in Bahrain, Foreign Direct Investment in Bahrain, Corporate Governance, Personal Data Protection, and Consumer Protection. I practice all areas of Bahraini law, and my areas of specialization include: the Corporate and Commercial Law; Construction; Insurance; Telecommunications; Civil Law; Litigation; and Arbitration. I respectfully submit that I am competent to opine on Bahraini law, civil procedure and the matters addressed in this Declaration.

**5.** I confirm that my opinion includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matter which would affect the validity of those opinions.

**6.** I confirm that my duty to the tribunal as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.

7. I confirm that I am not instructed under a conditional fee arrangement.
8. I confirm that I have no conflicts of interest of any kind.
9. I confirm that my opinion complies with the requirements of International Arbitration Practice Guideline on Party-appointed and Tribunal-appointed Experts by Chartered Institute of Arbitrators.
10. I confirm that insofar as the facts stated in my opinion are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.

### **Scope of Engagement**

11. On 23 August 2023, I provided to ICANN an opinion letter providing my legal opinion on the “Deleted by law” status of the commercial registration (“CR”) of GCCIX WLL registered under CR no. 78805 (“GCCIX”) under Bahraini law (the “Opinion Letter”). A true and correct copy of my Opinion Letter is attached hereto as Exhibit A. ICANN requested that I present this Declaration with my legal opinions, which are based on the legal opinions I expressed in my Opinion Letter with some additions.

12. To provide my opinion, I relied upon the laws of the Kingdom of Bahrain and the Bahraini Courts’ precedents and practice. Such materials included: 3.1.1 Decree Law No. (21) of 2001 promulgating the Commercial Companies Law; 3.1.2 Decision No, (6) of 2002 issuing The Implementing Regulations of the CCL; 3.1.3 Decree Law No. (27) of 2015 with respect to Commercial Registration (the “CR Law”); and 3.1.4 Order No. (126) of 2016 issuing The Implementing Regulations of the CR Law (the “CR Law

Implementing Regulations”).

13. The laws are officially issued in the Arabic language. The translations available are not official. In this Declaration, I will cite translated provisions of the law which I believe to be, to a large extent, accurate.

### **Registration Requirements under Bahraini Law**

14. Under Bahraini law, no person may conduct a commercial activity in Bahrain without a valid commercial registration (“CR”) and license from the licensing authority/ies relevant to their commercial activity/ies.<sup>1</sup>

15. Pursuant to Article 4 of the CR Law, all traders must be registered in the Commercial Register and must ensure that the register is up to date.<sup>2</sup>

16. Each CR must be maintained and renewed on an annual basis. Article 12 of the CR Law refers to the CR Implementing Regulations in respect of the renewal of the registrations.<sup>3</sup> Pursuant to Article 13 of the CR Implementing Regulations, the renewal

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<sup>1</sup> Article 7 of the CR Law (emphasis added): “*The concerned Directorate shall grant the registration applicant a certificate of his registration in the Commercial Register before obtaining the necessary licenses from the competent authorities to undertake the activity, provided that in the registration certificate there should be an indication that he has not obtained such licenses. The registration applicant, in this case, **may not undertake commercial activity before obtaining the necessary licenses from the competent authorities** and submitting them to the concerned Directorate and obtaining a certificate of registration in the Commercial Register stating the type of the licensed commercial activity.*”

<sup>2</sup> Article 4 of the CR Law: “*Every trader conducting commercial activity shall be registered in the Commercial Register, in which all the particulars prescribed in the Implementing Regulations and other laws shall be recorded, as well as every change occurring to such particulars.*”

<sup>3</sup> Article 12 of the CR Law: “*With due regard to the provisions of Paragraph (c) of Article (28) of this Law, renewal of registration in the Commercial Register shall be in accordance with the procedures and requirements provided for in the Implementing Regulations.*”

must be made on an annual basis.<sup>4</sup>

17. A CR not renewed on the anniversary of its issuance is therefore considered expired, and may be reinstated only in accordance with the CR Law and CR Implementing Regulations. If a CR is expired, the Ministry will delete the CR off the register.<sup>5</sup> Reviving a deleted CR requires the payment of a fee and fine for every month of delay.<sup>6</sup>

### **Consequences of Failing to Restore a Deleted CR**

18. The CR Law refers to the CR Implementing Regulations in respect of the process and requirements of striking off, deletion, and restoration of a CR.<sup>7</sup> Pursuant to Article 20 of the CR Implementing Regulations, a CR may be restored within three years from the date of deletion. In order to restore the CR, the CR owner must: (a) make a request to the Ministry; (b) pay the applicable fees; and (c) pay the applicable fine for each

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<sup>4</sup> Article 13 of the CR Implementing Regulations: “*The registrant may request the renewal of their registration annually, provided that all requirements, documents, and information requested by the relevant authority are fulfilled, and the prescribed fees are paid. The renewal request must be submitted before the expiration of the registration period or the last renewal period.*

*The relevant authority may renew the registration for more than one year with a single request, after collecting the prescribed fees for each year, without violating the provisions of laws, regulations, and other relevant decisions regarding the practice of commercial activities and registration.”*

<sup>5</sup>Article 17 of the CR Law Implementing Regulations: “*If the owner of the commercial registration does not renew the registration before its expiry or if they stop exercising the licensed activities for a continuous period of more than one year without an acceptable excuse, the relevant directorate must delete the commercial registration and notify the owner of the decision within thirty days of the date of its issuance, and publish it on the Ministry’s website.*

*The decision to delete the CR does not entail absolving the responsibility of the CR’s owner and those in charge of its management; their liability remains as though the registration is still in force.”*

<sup>6</sup> Paragraph 1 of Article 13 of the CR Law: “*If the trader does not renew his registration within the prescribed period, or if he ceases to conduct the activity licensed for him for a continuous period of more than one Gregorian year, without any acceptable cause, the concerned Directorate shall, on its own accord, delete the registration administratively, and shall notify the trader accordingly. The decision to delete shall be posted on the Ministry’s website.*

*The concerned Directorate may, upon the trader’s request, revive the registration after payment of the prescribed fee in addition to a fine for every month of delay with effect from the date of deleting the registration.”*

<sup>7</sup> Article 24 of the CR Law: “*The Implementing Regulations shall organize the procedures and requirements of striking off and deleting the Registration in the Commercial Register and the procedures and requirements of the restoration thereof.”*

month of delay. The Ministry has the authority to impose additional requirements to complete the restoration of the deleted CR.<sup>8</sup>

**19.** Restoration of commercial registrations that have been deleted for other reasons, such as failure to meet a condition or violation of any Law, Regulation, or Decision are also subject to the three-year period stipulated in Article 20 of the CR Implementing Regulations.<sup>9</sup>

**20.** A deleted CR that is not restored within three years from the date of deletion is considered finally struck off the commercial register and may not be restored.

### **Registration Status of GCCIX**

**21.** The Bahraini Ministry of Industry and Commerce (“MOIC”) has an online portal (the “Sijilat Portal”) that includes the public records of commercial registry in Bahrain. All applications for registering any amendments to the commercial registration details of companies are submitted via the Sijilat Portal.

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<sup>8</sup> Article 20 of the CR Implementing Regulations (emphasis added): “*Reinstatement of Cancelled Registration due to Non-Renewal or Cessation of Activity*  
*The relevant authority shall reinstate the cancelled registration due to non-renewal or cessation of activity in accordance with the provisions of Article (17) of this regulation, **within three years from the date of deletion**, upon a request from the registrant and after collecting the prescribed fees, along with the applicable financial penalty for each month of delay or part thereof, starting from the date of registration cancellation.*  
*The relevant authority may, before reinstating the registration, request the fulfillment of any requirements, information, or documents that are required for the activity's resumption or deemed necessary by the authority to complete the request for reinstatement.*”

<sup>9</sup> Article 21 of the CR Implementing Regulations (emphasis added): “*Reinstatement of Cancelled Registration for Failure to Meet a Condition or Violation of Laws, Regulations, and Decisions*  
*Without prejudice to the provisions of Article (10) of this regulation **and considering the three-year period mentioned in Article (20) thereof**, the relevant authority may reinstate the cancelled registration for failure to meet a condition or violation of laws, regulations, and decisions in accordance with the provisions of Article (19) of the same regulation, upon a request from the registrant.*  
*Before reinstating the registration, the relevant authority must ensure that the registrant has addressed the reasons for the violation, removed its effects, fulfilled the missing condition in the registration, and provided all additional requirements and documents requested by the relevant authority to ensure the non-recurrence of the violation that led to the registration cancellation. The registrant must also settle the prescribed fees and any other outstanding amounts payable to the Ministry.*”

**22.** I have checked the commercial register publicly available on the Sijilat Portal and note that Commercial Registration No. 78805-1 for commercial name GCCIX WLL, with Registration Date 28 August 2011, expired as of 29 August 2018. The CR was “Deleted by law” as of 29 August 2018 and remains “Deleted by law” as of the date I executed this Declaration.


**23.** I understand that GCCIX obtained Bahraini legal advice that its CR may be changed to “active.” I strongly disagree with this advice as the CR of GCCIX has been “Deleted by law” for a period exceeding three years. It is therefore finally struck off and may not be restored.

**24.** I also do not agree with the statement by GCCIX’s Bahraini counsel that GCCIX “is in good standing” due to the reasons set out hereinabove. Non-renewal of the CR means that GCCIX may no longer engage in commercial activities. Additionally, without legal personality, GCCIX may not take part in legal disputes.

**25.** Finally, if GCCIX were to apply for a new CR in Bahrain and a CR is granted, that CR would be associated with a new legal entity, not a continuation of GCCIX.

**26.** This opinion is based on my analysis of and my deductions from the laws and practices currently in place and is limited to the purposes of this matter.

I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 31<sup>st</sup> day of January 2024 at Manama, Bahrain.

By:   
Fatima Al Ali

