

114TH CONGRESS
2D SESSION

H. RES. 853

Authorizing the Speaker of the House of Representatives to initiate or intervene in a civil action regarding the compliance of the executive branch with the provision of law prohibiting relinquishment of the responsibility of the National Telecommunications and Information Administration with respect to Internet domain name system functions.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2016

Mr. KELLY of Pennsylvania submitted the following resolution; which was referred to the Committee on Rules, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Authorizing the Speaker of the House of Representatives to initiate or intervene in a civil action regarding the compliance of the executive branch with the provision of law prohibiting relinquishment of the responsibility of the National Telecommunications and Information Administration with respect to Internet domain name system functions.

Whereas Lawrence E. Strickling, the Assistant Secretary of Commerce for Communications and Information and Administrator of the National Telecommunications and Information Administration (NTIA), announced on August

16, 2016, that NTIA will allow the contract between the United States Government and the Internet Corporation for Assigned Names and Numbers (ICANN) to lapse by September 30, 2016;

Whereas NTIA’s decision necessarily used appropriated funds through payment of the salaries of NTIA staff whose time was used to make the decision and other expenditures for evaluating ICANN’s proposed reforms, in violation of section 539 of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2016 (Public Law 114–113; 129 Stat. 2332);

Whereas NTIA’s decision was made before the Government Accountability Office answered the question asked of it by Congress regarding whether the Internet Assigned Numbers Authority (IANA) functions are a Government asset, the transfer of which requires congressional authorization under clause 2 of section 3 of article IV of the Constitution of the United States (commonly known as the “Property Clause”); and

Whereas NTIA’s decision, in light of the foregoing, raises serious constitutional concerns regarding the separation of powers and the rule of law: Now, therefore, be it

1 *Resolved,*

1 **SECTION 1. AUTHORIZATION OF CIVIL ACTION REGARDING**
2 **COMPLIANCE OF EXECUTIVE BRANCH WITH**
3 **LAW PROHIBITING RELINQUISHMENT OF RE-**
4 **SPONSIBILITY OF NATIONAL TELECOMMUNI-**
5 **CATIONS AND INFORMATION ADMINISTRA-**
6 **TION WITH RESPECT TO INTERNET DOMAIN**
7 **NAME SYSTEM FUNCTIONS.**

8 The Speaker of the House of Representatives is au-
9 thorized to initiate or intervene in one or more civil actions
10 on behalf of the House in a Federal court of competent
11 jurisdiction to seek any appropriate relief regarding the
12 failure of the President, the head of any department or
13 agency, or any other officer or employee of the executive
14 branch to act in a manner consistent with that official's
15 duties under the Constitution and laws of the United
16 States with respect to the implementation of section 539
17 of the Commerce, Justice, Science, and Related Agencies
18 Appropriations Act, 2016 (Public Law 114–113; 129 Stat.
19 2332) or any other related provision of law, including a
20 failure to implement such section or any such provision.

21 **SEC. 2. NOTIFICATION.**

22 The Speaker shall notify the House of Representa-
23 tives of any decision to initiate or intervene in any civil
24 action pursuant to this resolution.

1 **SEC. 3. PROCESS FOR CIVIL ACTION.**

2 (a) REPRESENTATION BY GENERAL COUNSEL.—The
3 Office of the General Counsel of the House of Representa-
4 tives, at the direction of the Speaker, shall represent the
5 House in any civil action initiated, or in which the House
6 intervenes, pursuant to this resolution and may employ the
7 services of outside counsel and other experts for this pur-
8 pose.

9 (b) STATEMENT OF COSTS OF OUTSIDE COUNSEL
10 AND EXPERTS.—Not later than 30 days after the expira-
11 tion of each calendar quarter, the chair of the Committee
12 on House Administration shall cause to be printed in the
13 Congressional Record a statement setting forth the aggre-
14 gate amounts expended by the Office of General Counsel
15 on outside counsel and other experts pursuant to sub-
16 section (a) during that quarter.

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