

ICANN Hotline Policy Review Report

OVERVIEW

In response to a request from ICANN, NAVEX Global’s Advisory Services team was asked to conduct a review of ICANN’s Anonymous Hotline Policy and Procedures and compare them to best practices in order to identify any gaps and offer actionable recommendations for possible improvements that would elevate the Hotline to a best practice reporting mechanism.

Our review process is based on accepted global frameworks for best practice programs, including the U.S. Federal Sentencing Guidelines for Organizations (“FSGO”), and the Organisation for Economic Co-operation and Development’s *Good Practices Guidance on Internal Controls, Ethics and Compliance*.

REPORTING SYSTEMS AND FEAR OF RETALIATION

Applicable Standards and Common and Effective Practices

- The FSGO require that companies take reasonable steps to “...have and publicize a system, which may include mechanisms that allow for anonymity or confidentiality, whereby the organization’s employees and agents may report or seek guidance regarding potential or actual criminal conduct without fear of retaliation.”
- An employee’s fear of retaliation when considering whether to raise a concern can be the most difficult issue to address in implementing an anonymous hotline.
- Manager-to-employee retaliation is usually the primary concern, but retaliation from peers can also be an issue.
- Fear of retaliation is often based more on perception than reality; nevertheless, this perception is one of the two biggest obstacles to a company’s efforts to encourage reporting of misconduct (the other being the belief that nothing will be done as a result of making the report).

Findings	Recommendations	Priority
<p>1. ICANN has implemented an Anonymous Hotline governed by a Hotline Policy and procedure, which provides a mechanism for employees to report “serious issues that could have a significant impact on ICANN’s operations.” Individuals may report anonymously to the extent allowed by local law.</p>	<p>A. Hotline Policy - It is not common practice to limit hotline reports to “serious issues” that can significantly impact the organization. Often reporters do not understand how serious an issue or concern may be. It is best practice to allow reporting of all issues and concerns associated with misconduct related to laws, organizational policies and standards of conduct. We recommend amending the Hotline Policy to remove the “serious” qualifier.</p>	<p>Medium</p>

Findings	Recommendations	Priority
<p>2. The Hotline can be accessed 24/7/365 in all ICANN employee languages.</p>	<p>A. No Recommendations. This is good practice. Employees are more likely to utilize a hotline with no restrictions on access due to time of day, day of week or available languages for reporting.</p>	<p>N/A</p>
<p>3. The Hotline Policy lists five ways to make a report:</p> <ul style="list-style-type: none"> a. E-mail with email address b. Facsimile with phone number c. Web with URL d. Intranet with URL e. Telephone via toll-free numbers (included) both inside and outside North America. <p>International dialing numbers are included in a list at the end of the Hotline Policy; however, the reference to these dialing/access numbers on page 2 of the Hotline Policy do not specify where to find this list.</p>	<p>A. Hotline Policy - The number of hotline contact methods is commendable; however while the international toll-free access list is included as the last Hotline Policy addendum, we recommend making this list the first addendum and referencing its location in the list of contact methods as follows: “See international toll free access list in Addendum 1 of this Hotline Policy.”</p>	<p>High</p>
<p>4. Intake reports created by the third party vendor are sent directly to each of the four ICANN executives who comprise the Hotline Committee: COO, GC, Deputy GC responsible for employment matters, and the Director of HR. The report contains any follow-up actions taken by the vendor.</p>	<p>A. No recommendations. Reports should be sent to at least 2 people in the event that one is unavailable. Four people may increase the potential for a confidentiality breach, but we have no recommendations for change.</p>	<p>N/A</p>
<p>5. The Hotline Committee convenes within 4-24 hours after receiving an urgent report “(e.g. detrimental to ICANN if not dealt with immediately)” to review the report, determine the course of action and assign responsibility for any needed investigation. Any action taken will depend on the nature of the concern reported..</p>	<p>A. Hotline Procedures – We recommend revising the Hotline report handling process to review all matters when received. Just because a matter happened in the past does not mean it was not potentially serious and also does not address the potential for the issue to reoccur.</p> <p>B. Hotline Policy - We recommend the Hotline Policy be updated to reflect that a reporter will receive acknowledgement of the organization’s</p>	<p>High</p>

Findings	Recommendations	Priority
<p>The Hotline Committee will follow this same procedure for non-urgent reports with the exception of convening not more than seven calendar days of receiving the report.</p> <p>In practice, ongoing matters are considered urgent. Matters that happened in the past and do not appear to be ongoing are treated as non-urgent, in which case the Hotline Committee will convene within 7 days to determine a course of action.</p> <p>Labeling past activity reports as non-urgent is not consistent with good practice and could create risk by delaying review.</p>	<p>receipt of their concern within 24-48 hours of making a report.</p>	<p>High</p>
<p>6. The Hotline Policy scope is limited to employees.</p>	<p>A. Hotline Policy - Based on common practice, we recommend making Hotline access information accessible to all Business Partners¹ and other appropriate third parties as defined by ICANN to report ethics or compliance matters.</p> <p>The Hotline access information may be communicated to Business Partners and other appropriate third parties as defined by ICANN by publishing the Hotline access information on the public website, adding language stating how these third parties may use it and defining the types of issues that may be reported so that Hotline reports are limited to ethics and compliance matters.</p> <p>B. Implementation - After the scope of the Hotline Policy is revised to include Business Partners, the change should be reflected in the scope of the Employee Conduct and Work Rules Policy; therefore, we recommend revising the scope of the Conduct and Work Rules Policy to include Business Partners. For example, typical scope language that includes</p>	<p>Low</p> <p>Low</p>

¹ "Business Partner" is defined as any party that has a contracting relationship with ICANN, including vendors, suppliers, temporary workers and contractors.

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	<p>Business Partners is as follows:</p> <ol style="list-style-type: none"> 1. “This Code applies to all employees of ACME. Certain third-party business partners, such as agents, consultants, vendors and temporary employees, contractors may serve as an extension of ACME. They are expected to follow the spirit of the Code, as well as any applicable contractual provisions, when working on behalf of ACME.” 	
<p>7. The Hotline Procedures state that the Hotline Committee will determine if selected ICANN management or the Board of Directors will be notified about each report.</p> <p>However, ICANN verbally confirmed that every Hotline report is forwarded to the Audit Committee.</p>	<p>A. Hotline Policy - The Board is generally notified about individual Hotline reports if they involve executive management, a serious financial or accounting matter, or other issue that may seriously damage the reputation organization. We recommend adding more detail to the Hotline Policy regarding the notification of the Board with defined types of Hotline reports.</p> <p>B. Hotline Procedures – We recommend editing the Hotline Procedures language to reflect actual practice that the Audit Committee is notified about every case.</p>	<p>Low</p> <p>High</p>
<p>8. Any member of the Hotline Committee (or the investigator) may submit questions to the Hotline vendor for the reporter to answer. The Hotline vendor will send any such questions and the reporter’s responses to all members of the Hotline Committee (and the investigator, if questions are originated by the investigator.)</p>	<p>A. No recommendations.</p>	<p>N/A</p>
<p>9. No case management software is currently being used</p>	<p>A. Hotline Procedures - It is best practice to utilize some type of case management system for tracking, documenting, reporting and predicting potential problem areas. This may be as simple as a dedicated network drive or SharePoint site. We recommend, at a minimum, developing a case management form to make sure that all cases are</p>	<p>Medium</p>

Findings	Recommendations	Priority
	documented and reported in a consistent way. Once this case management system is determined, modify the Hotline Procedures to include it.	
<p>10. Results of case intake and investigations are reported to the Board Audit Committee and may be reported, as appropriate, to members of ICANN management and to other stakeholders. For example:</p> <ul style="list-style-type: none"> a. The four ICANN designated recipients of each report receive a monthly activities report from the vendor. b. Starting with FY15, ICANN is reporting statistics on its hotline in an annual publicly posted report. c. The Audit Committee receives all Hotline reports. 	<p>A. Implementation – Based on good practice, we recommend publishing summary Hotline statistics, with a leadership message about what it means, to employees on a periodic basis. Such a message helps employees understand that others do, in fact, use the system and the types of issues that are reported. Employees should receive this information before it is published publicly, starting before the public posting for FY15.</p>	<p>Low</p>
<p>11. Non-retaliation language is included in the Hotline Policy, though protection of good faith reporting is not specifically mentioned.</p>	<p>A. Hotline Policy – We recommend updating the Hotline Policy to include description of good faith reporting.</p> <p>B. Implementation – We recommend addressing the subject of retaliation in training programs. This should include what retaliation looks like, and how to report it. Publicize the fact (without naming names) that retaliators are disciplined.</p> <p>C. Hotline Policy – We recommend that ICANN define/discuss the non-retaliation policy in more detail (and its application to complaints about any violation of policy or cooperation with investigations) in the Hotline Policy or in a stand-alone policy.</p>	<p>High</p> <p>Medium</p> <p>Medium</p>
<p>12. Order of resources and when employees can choose to contact the hotline as a resource are not included in the Hotline Policy or Procedures.</p>	<p>A. Hotline Policy - Best practice is to position the hotline as a potential first resource if contacting local management does not seem to be the best first choice for the reporter. We recommend adding this language to the</p>	<p>High</p>

Findings	Recommendations	Priority
	<p>Hotline Policy. For example, consider the following language:</p> <ol style="list-style-type: none"> 1. “If you ever feel uncomfortable about raising an issue directly with your manager, your HR representative or other Company management, ACME has created an additional resource - the ACME Helpline.” 	
<p>13. There are two ways in which the Hotline contact information is communicated to employees. First, communication of Hotline contact information is provided in the Hotline Policy, which is reviewed and attested to by all employees at onboarding and again annually. Second, posters provide the Hotline contact information and are displayed in employee common areas. No additional communications about the Hotline are provided to employees.</p>	<ol style="list-style-type: none"> A. Implementation – We recommend refreshing posters with Hotline contact information in all facilities periodically to renew awareness of the information. Best practice is to do this quarterly. B. Implementation – Based on best practice, we recommend providing additional specific information about the Hotline and investigative processes to all employees (i.e. who answers the call, who receives the reports, who will conduct the investigation, how confidentiality is maintained, what they will be told after an investigation, etc.). Such information lessens the fear of using this resource. 	<p>Medium</p> <p>High</p>
<p>14. Tests are run periodically to ensure that the Hotline process flow works appropriately.</p>	<ol style="list-style-type: none"> A. No recommendations. If not currently done on a periodic basis, consider auditing the third-party report intake provider for quality through the use of test calls and monitoring of report numbers/logs. 	<p>N/A</p>
<p>15. The Hotline Policy and Procedures are two separate documents. If employees are looking for information on the Hotline, they may look only for the Hotline Policy. Important information contained in the Hotline Procedures may be missed that would otherwise help to de-mystify the Hotline process and build trust in the Hotline as a resource.</p>	<ol style="list-style-type: none"> A. Hotline Policy – We recommend adopting a method for making sure the Hotline Procedures document is as readily available to the staff as the Hotline Policy. We also recommend communicating to the staff how and why this method has been implemented. These two recommendations will help ensure that those who use the Hotline have the benefit of the information in both documents, which together provide a full picture of the Hotline as a valuable resource. 	<p>Medium</p>

Findings	Recommendations	Priority
<p>16. The Hotline has received only 3 reports since its inception in 2008. Based on an employee count of 300, the ICANN Hotline should be receiving 4 reports annually (1.3% of total employee base²).</p>	<p>A. Implementation - There are several potential reasons for underutilization of a compliance hotline, including:</p> <ul style="list-style-type: none"> ○ Employee lack of awareness of the resource or how to contact it ○ Fear of reprisal if they use it ○ No trust that something will be done with a report ○ Fear due to lack of awareness of the hotline process ○ Preference to use management as the resource for raising issues and asking questions <p>Identifying the root cause would take further research, but good employee education on how the Hotline process works, how retaliation is handled, and how issues have actually been addressed often increases call volume. While ICANN requires reading and certifying of the Hotline Policy annually and at onboarding and displays posters with Hotline contact information, this is seldom enough to address fear and lack of trust.</p> <p>In small organizations, employees will often defer to management as their one and only resource for help with concerns, but ICANN is of a size where the Hotline should see more use.</p> <p>We recommend providing training to employees on the Hotline process (what happens after the complaint), retaliation and its handling, when to use the Hotline and types of issues to report. We also recommend that managers receive further training on handling reports raised directly to them and on the issue of retaliation.</p>	<p>High</p>

² NAVEX Hotline Benchmark Report 2015