

CCWG-Accountability Work Stream 2

ICANN Ombuds



Meeting #4
29 August 2016

Rapporteur: Sébastien Bachollet

WS2 Drafting Team “Ombudsman”

Active Participants

1. Sébastien **B**achollet - Rapporteur
2. Adebunmi Akinbo
3. Alberto Soto
4. Avri Doria
5. Carlos Vera Quintana
6. Cheryl **L**angdon-Orr
7. Chris LaHatte (previous Ombudsman)
8. Edward Morris
9. Farzaneh Badii
10. Herb Waye
11. José Francisco Arce
12. Jimson Olufuye
13. Herb Waye (acting Ombudsman)
14. Karel Douglas
15. Klaus Stoll
16. Michael Karanicolas
17. Raoul Plommer
18. Robin **G**ross
19. Sivasubramanian Muthusamy
20. Susan Payne

Observers

1. Aarti Bhavana
2. Alan **G**reenberg
3. Akinremi Peter Taiwo
4. Amrita Choudhury
5. Angie Graves
6. David Maher
7. Elizabeth Bacon
8. Gangesh Varma
9. Iftikhar Shah
10. Johan Helsingius
11. Jon Nevelt
12. Mike Rodenbaugh
13. Pam Little
14. Philip Corwin
15. Renu Sirothiya
16. Rinalia Abdul Rahim
17. Vidushi Marda
18. Vinay Kesari

Board Liaisons • Asha Hemrajani • Mike Silber (backup)

Subgroup Time Slots

Day		WS2-Ombudsman
Monday	August 8, 2016	#01 Omb-WS2 05:00 UTC
Tuesday	August 16, 2016	#02 Omb-WS2 13:00 UTC
Monday	August 22, 2016	#03 Omb-WS2 19:00 UTC
Monday	August 29, 2016	#04 Omb-WS2 05:00 UTC
Tuesday	September 6, 2016	#05 Omb-WS2 13:00 UTC
Monday	September 12, 2016	#06 Omb-WS2 19:00 UTC
Monday	September 19, 2016	#07 Omb-WS2 05:00 UTC
Monday	September 26, 2016	#08 Omb-WS2 13:00 UTC
Monday	October 3, 2016	#09 Omb-WS2 19:00 UTC
Monday	October 10, 2016	#10 Omb-WS2 05:00 UTC
Monday	October 17, 2016	#11 Omb-WS2 13:00 UTC
Monday	October 24, 2016	#12 Omb-WS2 19:00 UTC
Wednesday	November 2, 2016	CCWG
Thursday	November 3, 2016	ICANN 57 03-09 November 2016 Hyderabad
Friday	November 4, 2016	
Saturday	November 5, 2016	
Sunday	November 6, 2016	
Monday	November 7, 2016	
Tuesday	November 8, 2016	
Wednesday	November 9, 2016	

12 participants + Staff
13 participants + Staff
15 participants + Staff

CCWG-Accountability
Work Stream 2



Agenda Meeting #4 Ombuds

- Call Admin and Roll Call / Apologies (2 min Staff)
- Welcome – Opening Remarks – Meeting schedule (3 min SBT)
- Discuss / document (50 min)
https://docs.google.com/document/d/192SDRXsnr5ujf1iVj4hj_WMf3fMmYiEhY1ur8E_T73g/edit
 - Background for Ombuds Office in Work Stream 2
 - Dependencies between the sub-groups
 - Stress Tests
 - Current role of the ICANN Ombuds Office
 - Evaluation
 - Various types of Ombudsman roles
 - Challenges
 - Recommendation
 - Additional role for the Ombuds Office?
 - Interaction
 - Communication @ Relationship
 - Trust
 - Advice
 - Conclusion
- Next Meeting (5 min)
- AOB (5 min)

Background for Ombuds Office in WS2

- ICANN’s new bylaws reflect the CCWG Supplemental Final Proposal, regarding Work Stream 2 (WS2)
 - ARTICLE 27 TRANSITION ARTICLE
 - Section 27.1. WORK STREAM 2
 - (b) The CCWG-Accountability recommended in its Supplemental Final Proposal on Work Stream 1 Recommendations to the Board, dated 23 February 2016 (“CCWG-Accountability Final Report”) that the below matters be reviewed and developed following the adoption date of these Bylaws (“Work Stream 2 Matters”), in each case, to the extent set forth in the CCWG-Accountability Final Report:
 - (vii) Considering enhancements to the Ombudsman’s role and function;
 - This WS2 item was described in the CCWG-Accountability Work Stream 1 Final Proposal (Annex 12)
 - *Through the enhanced Request for Reconsideration process (see Recommendation #8: Improving ICANN’s Request for Reconsideration Process), the CCWG-Accountability has given increased responsibility to the Ombudsman.*
 - *The Ombudsman can perform a critical role in ensuring that ICANN is transparent and accountable, preventing and resolving disputes, supporting consensus-development, and protecting bottom-up, multistakeholder decision-making at ICANN. ICANN’s Office of Ombudsman must have a clear charter that reflects, supports, and respects ICANN’s Mission, Commitments and Core Values, and must have sufficient authority and independence to ensure that it can perform these important roles effectively. As part of Work Stream 2, the CCWG-Accountability will evaluate the current Ombudsman charter and operations against industry best practices and recommend any changes necessary to ensure that the ICANN Ombudsman has the tools, independence, and authority needed to be an effective voice for ICANN stakeholders.*

Dependencies between the WS2 sub-groups

1. **Diversity** (Sébastien Bachollet)
2. **Human Rights** (Raoul Plommer)
3. **Jurisdiction** (Farzaneh Badii)
4. **SO/AC Accountability** (Cheryl Langdon-Orr)
5. **Staff Accountability** (Avri Doria)
6. **Transparency** (Michael Karanicolas)
7. **Reviewing CEP** (Edward Morris)
8. **Guidelines stand. conduct** (Karel Douglas)
9. **IRP "Phase 2"** (Robin Gross)
10. **ICANN Ombuds**

Stress Tests vs Ombuds

- Stress Tests vs Ombuds (CLO)
 - When?

Current role of the ICANN Ombuds Office

- The Ombudsman Role has been expanded through WS1, to include a responsibility to perform a first substantive review over Reconsideration Requests.
- In addition, the CWG-Stewardship identified a new role for the Ombudsman, as a place of escalation for complaints about (Public Technical Identifiers) PTI's naming function service delivery.
[***Can someone point to an official document?***]

- This expansion is in addition to the Ombudsman's existing role (as set forth in the ICANN Bylaws) and further described in the Ombudsman Framework.
- The Ombuds office is a mediator and not a decision maker. The Ombuds office can only suggest it can never tell anyone to do anything - which is why informality is so important.

Evaluation (1/2)

- Evaluate the current Ombudsman charter and operations against industry best practices
 - [Ombudsman Framework](#) (April 2009)
- International Ombuds Association
 - <http://www.ombudsassociation.org/About-Us/IOA-Standards-of-Practice-IOA-Best-Practices.aspx>
 - http://www.ombudsassociation.org/IOA_Main/media/SiteFiles/IOA_Best_Practices_Version3_101309_0.pdf

Evaluation (2/2)

- Jurisdiction
- Power
- Independence
- Neutrality, Impartiality, Fairness
- Confidentiality
- Informality and other standards
- Communication
- Output

Various types of Ombudsman roles

- There is a lot of variance in the type of Ombuds Offices.
They work differently, depending on their legislation and their powers.
Some research could possibly be done in that area.
 - Legislative
 - South African "Public Protector"
 - France "Défenseur des droits"
 - University
 - Organizational
 - Executive (like ICANN)
 - Etc.

Challenges

- Technical vs. common sense.
- Formal vs. Informal.
- Big issues and small issues. All problems come in regardless of importance/size.
- Reaching the community.
- Orientation to newcomers/staff/nextGen should be built in.
- Being used to game system.
- Ombuds shouldn't require a team of lawyers.

Recommendation

- Recommend any changes necessary to ensure that the ICANN Ombudsman has the tools, independence, and authority needed to be an effective voice for ICANN stakeholders
 - Term of the ombudsman
 - True independence in a role that is subject to Board renewal

Additional role for the Ombuds Office?

- Can and do we need to go beyond the traditional remit of an Ombudsman (i.e. fairness)?
- Inspector General vs Ombuds.
Informality is critical. An Inspector General takes this in a completely different direction and is not an Ombuds role.
- Some of the things that have or may be proposed are beyond the Ombuds competence and how we should handle that.
- A way to answer this question is:
 - To look at the powers and framework for the position we are looking for;
 - [For this document we will call it Ombuds Office].
 - To hire the candidate(s) who embody those needs;
 - To define the final name for the position.
- “And an Inspector General or an Auditor General, or whatever you want to call it, watchdog of an organization, is a very different role. And for an Ombuds to go in that direction, it would be a complete change in the focus of having that accountability mechanism.”

- How the new role of the Ombudsman would interact with other mechanisms, to avoid duplication and optimize effectiveness?

Communication @ Relationship

- In-reach to community vs Out-reach
- Relationships with Board & Community leadership.
- All new Board and community leaders have Ombuds orientation?
- Give voice to everyone (regardless of size or perceived unimportance of group)
- Advocate for ethical behavior

Trust

Any advice to the future ICANN Ombudsman?

- New bylaw changes: Reconsideration
- Formal vs. informal?
- Involvement with community?
- Involvement in policy development to ensure fair input from all parties?
- Should policy issues be run past the ombuds office?
- Advocate for ethics/code of conduct?
- Harassment – bullying – behavior?

Conclusion

Next Meeting #5 Ombuds-WS2

- Tuesday September 6, 2016 13:00 UTC
- Follow-up on the discussion of the document
 - Background for Ombuds Office in Work Stream 2
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