CCWG-Accountability Work Stream 2
ICANN Ombuds Office
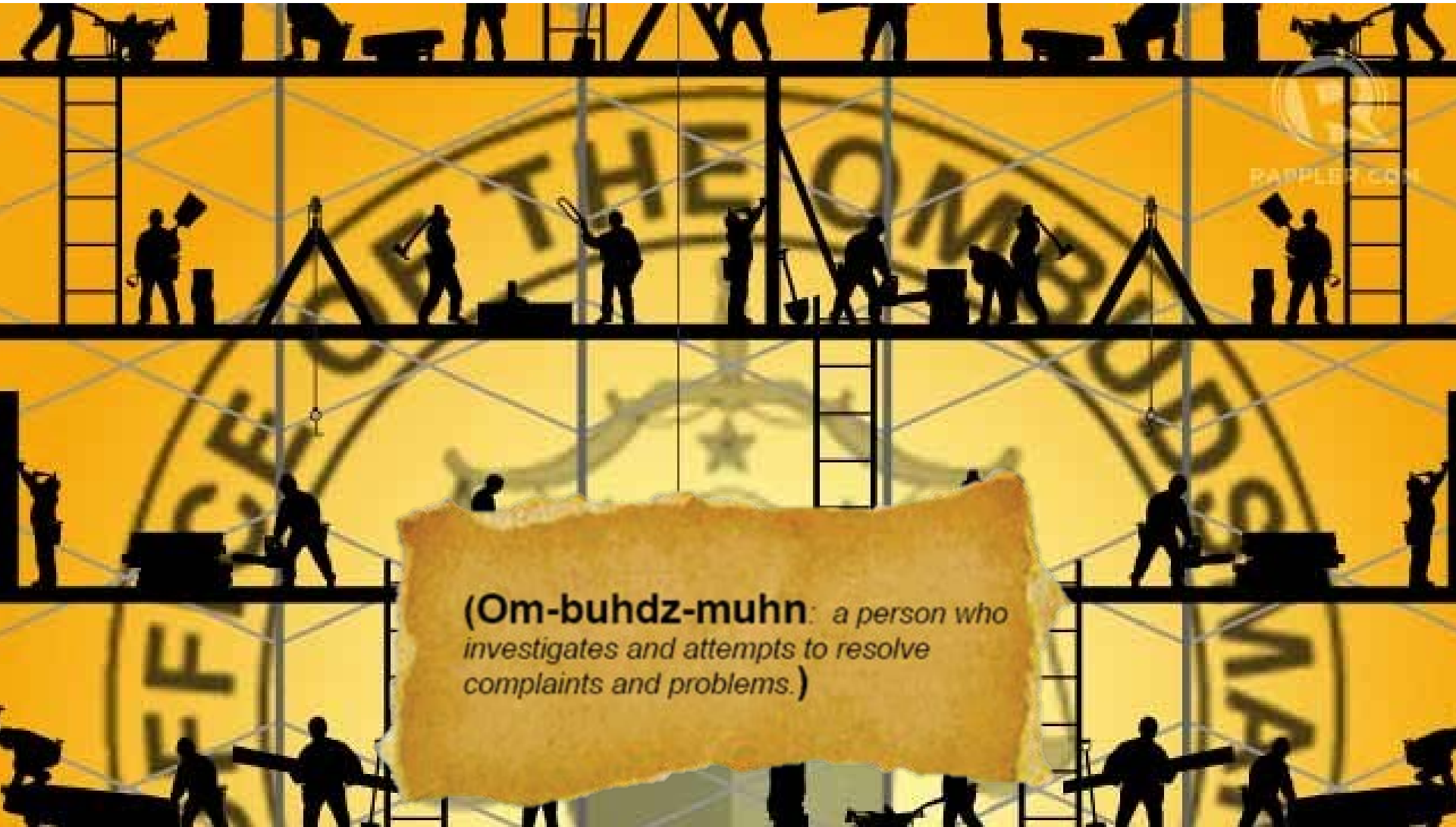

(Om-buhdz-muhn: *a person who investigates and attempts to resolve complaints and problems.*)

Agenda Meeting #12 Ombuds

- Roll Call / Apologies – Welcome – Opening Remarks
- External review of the ICANN Ombuds Office
  - Discussion with legal staff
  - Discussion with procurement staff
  - Discussion with "reviews" staff
- How to organize our team?
- Prep of the next WS2 plenary (Dec 14, 2016)
- Calendar
  - Next meeting #13 Monday Dec 19, 2016
- AOB

CCWG-Accountability

Work Stream 2

Subgroup Time Slots

Day			WS2-Ombudsman	
Monday	August 8, 2016	#01	Omb-WS2 05:00 UTC	12 participants + Staff
Tuesday	August 16, 2016	#02	Omb-WS2 13:00 UTC	13 participants + Staff
Monday	August 22, 2016	#03	Omb-WS2 19:00 UTC	15 participants + Staff
Monday	August 29, 2016	#04	Omb-WS2 05:00 UTC	05 participants + Staff
Tuesday	September 6, 2016	#05	Omb-WS2 13:00 UTC	13 participants + Staff
Monday	September 12, 2016	#06	Omb-WS2 19:00 UTC	06 participants + Staff
Monday	September 19, 2016	#07	Omb-WS2 05:00 UTC	07 participants + Staff
Monday	September 26, 2016	#08	Omb-WS2 13:00 UTC	12 participants + Staff
Monday	October 3, 2016	#09	Omb-WS2 19:00 UTC	09 participants + Staff
~~Monday~~	~~October 10, 2016~~	#	Omb-WS2 05:00 UTC	canceled
Monday	October 17, 2016	#10	Omb-WS2 13:00 UTC	05 participants + Staff
Monday	October 24, 2016	#11	Omb-WS2 19:00 UTC	06 participants + Staff
Wednesday	November 2, 2016		CCWG	
Thursday	November 3, 2016			
Friday	November 4, 2016			
Saturday	November 5, 2016		ICANN 57 03-09 November 2016 Hyderabad	
Sunday	November 6, 2016			
Monday	November 7, 2016			
Tuesday	November 8, 2016			
Wednesday	November 9, 2016			

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Work Stream 2
Ombuds
ICANN

WS2 Drafting Team "Ombudsman"

Active Participants

1. Sébastien **B**achollet - **Rapporteur**
2. Adebunmi Akinbo
3. Alberto Soto
4. Avri **D**oria
5. Carlos Vera Quintana
6. Cheryl **L**angdon-Orr
7. Chris LaHatte (previous Ombudsman)
8. Denise Michel
9. Edward Morris
10. Farzaneh Badii
11. Herb Waye (acting Ombudsman)
12. José Francisco Arce
13. Jimson Olufuye
14. Karel Douglas
15. Klaus Stoll
16. Michael Karanicolas
17. Raoul Plommer
18. Robin **G**ross
19. Samantha **E**isner
20. Sarah Kiden
21. Sivasubramanian Muthusamy
22. 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 Nevett
12. Mike Rodenbaugh
13. Pam Little
14. Pablo Andrés Mazurier
15. Philip Corwin
16. Renu Sirothiya
17. Rinalia Abdul Rahim
18. Vidushi Marda
19. Vinay Kesari
20. Yoav Ostreicher

Board Liaisons

- Asha Hemrajani
- Mike Silber (backup)

Co-Chair

- Mathieu **W**eill

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Work Stream 2

Subgroup Time Slots

Day	#	WS2-Ombudsman	
~~Tuesday 22 November 16~~		~~Omb-WS2 5:00UTC~~	canceled
Friday 9 December 16	#12	Omb-WS2 19:00UTC	xx participants + Staff
Monday 19 December 16	#13	Omb-WS2 5:00UTC	xx participants + Staff
Monday 9 January 17	#14	Omb-WS2 13:00UTC	xx participants + Staff
Monday 23 January 17	#15	Omb-WS2 19:00UTC	xx participants + Staff
Monday 6 February 17	#16	Omb-WS2 5:00UTC	xx participants + Staff
Monday 13 February 17	#17	Omb-WS2 13:00UTC	xx participants + Staff
Monday 27 February 17	#18	Omb-WS2 19:00UTC	xx participants + Staff
Friday 10 March 17		CCWG	xx participants + Staff
Saturday 11 March 17			
Sunday 12 March 17			
Monday 13 March 17		ICANN 58 11-16 march 2017 Copenhagen	
Tuesday 14 March 17			
Wednesday 15 March 17			
Tuesday 16 March 17			

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Work Stream 2

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ICANN

External review of the ICANN Ombuds Office

Discussion

- **Legal**
- **Procurement**
- **Reviews**

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Work Stream 2

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Legal (question)

- Is the current ICANN Ombusman (and his predecessor) placing himself in a conflict of interest by participating in the sub-group which will have responsibility for the external review of the Office of the Ombudsman?

- If so what should the Ombudsman do to avoid such a conflict (completely recuse himself from all aspects or only from making or approving recommendations)?

Legal (Answer from ICANN Legal)

- **We do not believe** that the scope of the WS2 work on the Ombudsman **poses a conflict of interest** such that the ICANN Ombudsman or his predecessor need to recuse themselves from the work of the subgroup.
  The current and prior Ombudsman each have identified interests in this work – the current Ombudsman has a contract with ICANN and is paid for his service as Ombudsman.
  The prior Ombudsman used to be.
  Any and all contributions of the Ombudsman can be considered with that identified interest in mind.
  The current and the prior Ombudsman each have a unique perspective on the ICANN Office of the Ombudsman, and the current Ombudsman is addressing how to take on the new roles assigned in the new Bylaws.
  Each likely has information that is invaluable to the group's deliberations.
  The ICANN Ombudsman is a unique role, and excluding the Ombudsman or his predecessor from attempts to improve and better understand that role could impair the achievements of the best results.

- We would also expect that the current (and possibly the prior Ombudsman) will likely be interviewed by the reviewer, once selected.
  Once recommendations are made, just as in the organizational review process where the entity under review provides reactions to the recommendations, seeking the reaction of the Ombudsman may also be a valuable step here.

- **In summary, if the Ombudsman or his predecessor is willing to participate in the subgroup's work, we see no legal reason why they should not participate**.

Legal (Inputs from ccwg Legal Committee)

- The legal committee reviewed and discussed the answer provided by ICANN legal and concluded the following

  1. The reply seems to be both legally reasonable and in line with common sense

  2. Some members of the legal committee suggest this seems to be more a policy question rather than a legal one so in turn we suggest, should the group chose to do so, to consider posing this questions to the plenary group

- Please let us know if you have any doubts or further comments

Procurement

- Schedule of the RFP and EOI
- Budget issue?
- Involvement of the IOO-DT?

Review(s)

- Good practices (from other reviews)
- Possible schedule

- 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_1013090.pdf

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

How to organize our team?

ICANN Ombuds

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. **ATRT2** (Avri Doria)

Prep of the next WS2 plenary (Dec 14, 2016)

- Review
  - External review of the ICANN Ombuds Office under way
  - After inputs from ICANN legal, we have concluded
    - **If the Ombudsman or his predecessor is willing to participate in the subgroup's work, we see no legal (and policy) reason why they should not participate**
  - Budget was allocated
  - The outside expert will be able to review the IOO and to bring his/her expertise to the Drafting Team
  - Reviewing the role of the IOO-DT in that process
- IOO-DT (other) goals
  - IOO-DT will review what tasks
    - Need to be delay after receiving the external review report
    - Can be handle in //

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Monday 13 March 17			
Tuesday 14 March 17			
Wednesday 15 March 17			
Tuesday 16 March 17			

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Work Stream 2

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Calendar

- Next meeting #13 – Monday Dec 19, 2016
- Proposed Agenda
  - Roll Call / Apologies – Welcome – Opening Remarks
  - External review of the ICANN Ombuds Office follow-up
  - Other tasks that
    - Need to be delay after receiving the external review report
    - Can be handle in //
  - Calendar
    - Next meeting #14 – Monday Jan 9, 2017
  - AOB

Draft Doc IOO-WS2 chapters (V#6)

Executive summary
Description of issue
1. Background for ICANN Ombuds Office (IOO) in Work Stream 2
2. Dependencies between the WS2 Design Teams
3. Overlap ATRT2 / CCWG-Accountability
4. Stress Tests (WS1) vs Ombuds
5. Current role of the IOO
6. Evaluation (Framework vs best practices)
7. Various types of Ombuds roles
8. Challenges
9. Recommendation (about the IOO)
10. Additional role for the IOO?
11. Interaction (with other ICANN mechanisms)
12. Communication & Relationship
13. Trust
14. Advice to the ICANN Ombuds Office (IOO)
15. Conclusion

Recommendations

INDEPENDENT
Mediation
Safe
Fair
Facilitation
Informal
Confidential
Impartial
Neutral

AOB