

CCWG-Accountability Work Stream 2
Ombudsman Meeting #32
22 January 2018 @ 19:00 UTC
Captioning

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>> In addition to what we had last week was I start to make some comments on the discussion points or respond to help us to start the discussion. I didn't -- I've done -- I haven't done it for all yet but we can follow the work I didn't start if there any -- is that -- okay we -- you any questions or comments?

Maybe now you can tell us now what was the additional comments we received if any thoughts from the board?

>> I believe there was the register's added in since the sheet we looked at last week.

>> SEBASTIEN BACHOLLETT: Thank you we have to think of groups, comments that add what we -- okay. Any other comments or questions? No then let's go. I guess that's the first one didn't need any discussion -- the oh I didn't make any comments here. It says this that the it's good to be set up through consideration with the community. My feeling on that is that we have already multiple parts on contact and consultation with the committee. I don't see what's specifically here we need to do and -- but -- any specific comments on that? No? Yes Cheryl please.

>> Thanks Sebastien. I was busy talking I just said I would put my hand up and say it. I understand the desire to reiterate the importance the confederation of the community. I do think we have this covered. In terms of response for this particular overall comment, I would be noting in our notes column that we believe this is adequately covered. That allows us to -- we agree that we believe we have adequately covered. I think it's important we do our very best to show a reaction when it's other than wholesale report. Thanks.

>> SEBASTIEN BACHOLLETT: Yes, agree. Thank you for comments Cheryl at least we will add that in the -- in the document for next week. And as the captioning is starting that's great, may I just tell you that name is just with T is the end. I don't double on my record. Thank you. Okay. Let's go to the next comment.

Here we have the question of the question of the Ombuds. Can we -- I can't -- I don't know you -- all of you can move the -- or I'm the one able to do it. Just to be sure we need what we need to read. In this comment the question of the innocence city just link with the five year fix term but I think we need to say it's also in recommendation nine with the way it must work and we have also in recommendation 7 explained that the office of the Ombuds will not just be a single person. It's never been really very few -- small barrier when it was just one person but it was

the question of hiring an adjunct advisor Ombuds when it started -- we started to work it was just men at the moment. But it's -- it's -- it's something -- it's already at least two person even if it's not two full time person. It's two person. It could be more depending what we finally decide at the office we need to do. And the question of being independent it's not to be able to work after the term of contract. My suggestion is that -- positive development. I didn't see too much trouble with that but -- if you have other idea -- other sort on that, just please tell us. Yes Cheryl.

>> Thank you Sebastien. Cooler for the record. I think this is a major issue for this group and it's not an issue that other groups have not been concerned with. My personal opinion this is not one I've checked with -- my personal opinion is that there are compliant steps forward as a result of this review and report in improving in the independence of the ombudsman. I think we need to recognize that yes, there are concerns about independence of any office or any entity [Indiscernible] direct financial report with regard to independence from an external viewer point. However, the standards end and best practices and expectation of Ombuds office are clearly able to be benchmarked to the highest level of demonstrable independence regardless of support of economic support. And before this -- increased time of contract as I step towards greater demonstrable independence is one we continue to support but just as a contractor gets revenue from a prime resource, revenues have to be sourced from somewhere so we need to look at the diligence to the standards of behavior rather than the source of revenue. I'm stumbling now that you had good intention. Even if you're an innocent entity unless every person in the world who has a domain name is paying 5-cents of the support of this third party unrelated entity, [Indiscernible] coming from -- could be coming from . So the risk is also intended to be born always exist. It's the standard of behavior that's sure that's not going to be a worry. Any way that's my view. Thank you.

>> SEBASTIEN BACHOLLETT: Yeah, I want to under line also that the -- the office will if this is adopted will not connect with the board with this community and that's helped to increase also to to announce the independence. It's also one of the reasons we have work on that direction with this -- with this recommendation, I guess it's number 7. I need to check which number it is but that's -- maybe something we can add in our comments.

Okay. With this -- this other comments I guess we cover in the discussion we just have. And now let's go to next one.

Okay. That's the first time we have this comment. I see coming from the board and I will read it. We note the recommendation in this report are largely based on the external evaluator -- July 2017 clarity is needed as to whether the CCWG accountability intends for its recommendation to over take the word of the external evaluate or if the other aspect of the external evaluation way for report all standard. For example the CCWG accountability's recommendations state that no changes are needed to the by law releasing to the ombudsman. The external examiners however recommends that a more strategic focus starts through clarifying the language in the by laws.

Yes, we have the -- and the reason is we -- we wanted to have quicker and easier implementation not to wait to change the by law. If one way we're able to change the by law it will be great but that's not a question today and I would say we over state but in the same time in the explanation of the why of those recommendations we didn't take all the inputs from the reviewers then if someone want to understand completely and indepth the recommendation,

the one we are taking even without the by law changes but if want to take understanding of what's behind all that, it's -- could be good to read the report of the external reviewer but as matter of what we are proposing to change in the Ombuds office it's our report and not the one of the reviewer that we're proposing today. Any comments, other ones to speak? Okay. If not, let's go to the next comment.

Yeah and I will read what Cheryl just write. More of the CCWG recommends can be implement and any by law changes can follow. And that's -- I agree with that. board comment. To the extent that the CCWG accountability is focused on the speed of implementation and hopes to avoid any by laws modifications or changes to the ombudsman framework the ultimate focus should be on the proper implementation of recommendation in order to hold accountable to meeting their intent. I will implement it will be something to take in concern but it's not the case situations today.

Cheryl please.

>> Thank you Sebastien. Here I think we -- in our answer is completely agree but I can't help but point out clearly they understand our answer to previous point without answering the previous point. Because what we're going to be saying about the effective need and speed of imply manation from what we recommend as opposed to the [Indiscernible] 41 out of the report in terms of by laws is what they're telling. Yes we agree but I just trying to think we probably need to work tend gent city that o recognizes as per our previous response this is indeed our intent, we most assuredly agree on that but the point you made that this is not implementation phase we are not an implementation team, I think is also worth noting here. So supportive, it's probably a very wordy -- [Indiscernible] we agree. But then again they've been very wordy with our section of analysis our recommendation.

>> SEBASTIEN BACHOLLET: Thank you Cheryl. We'll take that into account to add to this comment. The second from the board comments is while a majority of the recommendation appear to be reasonable and productive enhancement to strengthen the office of the Ombuds a few recommendations would benefit from additional clarification noted below specifically recommendations on the notion of the diversity of staff available to the Ombuds office recommendation 7, the proposal for advisory panel if he can indication 8. The item of the Ombuds contract recommendation 9 raise important concerns for the consideration. I guess we will go through and answer all of them. The last paragraph is based on the inputs from the Ombuds we understand that the current office of the Ombuds already has activity in place that might address some part of the recommendation as issued. In addition the Ombuds already started considering our some of the recommendation could be reached. For example, one way to deepen the understanding of the role and work of the Ombuds could be through more recommend communication such as blog passing and other informative communication. Similarly they are already reporting mechanisms in places through those might be able to be better publicized and refine. Yes. Yes. Yes. Yes. Life is going on and we can't start the only -- we can't stop the work to talk with Ombuds. No one can stop to work -- [Indiscernible] and it's important from my point of view to raise what we're doing is not just because this is Ombuds office -- this Ombuds will do it. It's also to be sure that it will be in the duty of any future Ombuds office. a office. That's why it's also important why take all that importance.

>> Cheryl. I don't disagree with what we're intending if your work here is a clear con cession of these good practices. As part of the fabric of the Ombuds office regardless of an individual

who are working in it. I think that what we're saying. I do say this point here a good opportunity for us to recognize that the Ombuds office has kept a very close and collaborative eye on what we've done and we appreciate the fact that they have both taken such a close interest in all of our work. Have contributed where we have asked any clarifying questions and have -- and were quite pleased that they are already working towards implementing some of their clearly well founded recommendations. Sort of recognize that this current Ombuds office is doing a great job of already trying to get ahead of the curve here and make sure they recognize -- it's recognized publically however this is a matter of making it the expectation of all future activity not just the activity we're working with now in the current situation. Thanks.

>> SEBASTIEN BACHOLLET: Thank you Cheryl. Other comments? Suggestions?

Okay. Then let's go -- we'll take all but apart of Cheryl and I said during this -- to add in our column of response and comments. Let's go to next comments. Okay. I will do it. No. Okay. Thank you. That's another board comments. I will read it as it's a new one first. The -- it's overall comment. The implication on resources is an important overarching consideration that should be considered for these and all recommendations. As a general observation operates within a specific budget based on limited funding. Recommendations that add costs to operation result in organization making trade off with other items such as implementation of new policy or innovation of existing program or services. Such policies without considering the impact on resources may lead to situation where the organization is unable to effectively meet community expectation with either or new recommendation or existing obligation. The CCWG accountability should consider that he has factor and provide guidance in its final report regarding the priority importance and extent these recommendation and all the CCWG recommendation should be implement and in what time frame.

Cheryl please.

>> Thank you Sebastien. I seem to be manipulating the comments here.

I agree. I mean this is -- this statement is a natural consequence of having a limited budget and a lot to do with it. And -- you know I don't disagree with what's said it's not really a work track issue. It's a accountability CCWG accountability issue as you said. Where I could say I agree you need to recognize I think again with the wording that absolutely there are always tensions between desires for implementation and cost of implementation and the budget -- [Indiscernible] on when and how they can be implemented. Notice I'm not saying if. But when and how. And that's again it's an implementation issue but it's one that the CCWG as a whole should talk about, recognize, and perhaps make some recommendation in terms of prioritization in its final report. Thank you.

>> SEBASTIEN BACHOLLET: Thank you Cheryl. I suggest we send to that -- [Indiscernible] CCWG accountability. I'll take my -- [Indiscernible] to say a very bad thing. Really bad. Who ask us to create complaint office within the staff. And where the money came from. I just think that sometime it's maybe also important to see what is happening in the other part of this recognition. But I stop here and I go back to my role and if we can go to the next comments and see what we can say about it. And it's 1.09. We read it last week. The question of enforcement is we discuss it I guess last week also. It's Ombuds office it's may help different groups to come to an agreement or one person against a group or -- and there is no un-- enforcement. I don't see what we can do here and if we need to add something to my suggest answer.

>> CHeryl.

>> It is. You and I. It's not really a jewel. I think we're not pairing at each other. Rather pairing together with the responses together. This is Cheryl for the record. Yes I agree with your comment but in fact it is not just a matter of how Ombuds office and working this way. It's a standard plan die of most Ombuds office that it acts under recommendation not under enforcement. It's heard by very well provide with specific terms from some of their Ombuds training and expected standards quality services et cetera. But I'm sure there's a mention somewhere in -- who has to operate on that. That could serve us well to add into this response. Thanks.

Certain thank you. Of course we'll come back on that and we'll review all of them with a bigger group next week or after -- before we finalize our comments.

Okay. This one -- thank you.

Let's go to the next one. 2.02. Here, we read it last week but here's it's try to say that what I say already about what is inside the external review report and our -- I'm not sure that having a comprehensive understanding of what is will add -- [Indiscernible] focus but of course it's something we need to understood by anyone who want to join Ombuds office.let's go to the next one. That's a new one. Why while the concept of having a more strategic focus is sound there is not a lot of detail in the report as to what that means. The report seems to reject the external evaluator recommendation only developing a more strategic focus through by laws language. O recommendation four. Required timelines for response that recommendation seems to propose a very detailed deadline by which the board and other members of the community must respond to the request and reports. It is unclear what issue is being solved here. There may be for example certain reports which require more information to fully understand the nature of the dispute and is the thus of the resolution. How will these deadlines work in practice with the rest of the community what is the outcome of the deadline o s not met. The current Ombuds has also informed the board of the 30 day response time frame currently in place for the organization's input into report has work well. Maybe somebody else has a comment.

If 30 days work well maybe 90 and 120 days will work too. For -- I don't see why we're so much impressed with putting some deadline to help the organization to be able some stand out, share by everybody if they are not following that. But it's boar say what we expect from this different group of the -- from the organization. And to see how it can work.

Okay. Let's go to next comment. I guess I didn't have made any comment on this green one as it's agreed.

Let's go to next one. That was some of our discussion last week. We asked Ombuds office to provide an example of the use -- example follow the user. Share continuation of current and have [Indiscernible] ombudsman this is not an issue with my office. I have a CMS that deal with this.

Okay. Any questions, comments?

Let's go to next one.

>> Cheryl for the record. We just encourage before printing any response to not use short hand for customer management system but use full terminology. CMA may not be a familiar term to everybody. Thank you.

>> SEBASTIEN BACHOLLET: Thank you. Fully agree. And let's go to next one. It's fully agreed. Let's go to the next one.

It's also agreeing. No need to go through.

I didn't provide anything. Those also. Support of recommendation 4. This one is with a little carry out but I don't see any divergent with the report. Did somebody see it and just provide suggestion to answer better than any suggestion. Let's go to the next one.

That was discussed last time. And once again we're talking about framework and date line and -- I don't see any -- [Indiscernible] to say here.

Okay. We are here. The question is it possible and we have already say previously but in the last call so that Ombuds office is not -- they are not taking decision that are binding to anybody. It's like trying to find a way to work through together with like complaint and the complainer and we hope it's acceptable by everybody. Let's go to the next one.

Except if somebody have a comment.

And we discuss it last time. And this suggestion of enforcement will completely change the way of ICANN Ombuds works and not just the ICANN as Cheryl explained earlier in this call. It's behavior of a lot of the Ombuds office all around the world and different industry or group or government, et cetera.

Therefore we don't think that we need to find any way to enforce anything.

>> Okay. Let's go to the next -- okay it's agreeing. Let's leave that. If we need to say thank you. Yeah? Go ahead.

>> Can you state the number.

>> SEBASTIEN BACHOLLET: I will try to.

6.02. It's support. And let's go to 6.03 -- no it's 7.01. It's also agreeing provide any comment. Let's go to the next one. 7.02, it's also support.

Next one. We start with 8.01. Try to pull mine also. Okay. Recommendation 7 we discuss it and we suggest that the recommendation it's open to diversity it's important to explain to the Ombuds office that need to take into content as much as possibility as diversity. Gender it's primary one we need to work on. I guess we'll discuss that comments and there's one from the board we will need to read it. And let's go to 8.02. The question of why we have set up first gender. It's because of the new policy about our announcements we'll go through in comments. Let's go to the next one 8.03. Okay.

That was some difference discrepancy between the [Indiscernible] recommendation and summary.

I guess it was fixed.

The next one is 8.04.

This one I need to read it as it is new comments made by the board and then I'll read the comment. 8.04. Per the report the primary objective of this recommendation is to ensure that the community has choices as to whom in the Ombuds office of community can bring their complaint and feel more comfortable doing so. The ICANN board agrees that consideration need to be given on the availability of alternative resources for the Ombuds office. While ICANN is not able to employment desises based on consideration such as gender nationality, or many other protected characteristic there are likely ways to coordinate adjunct resources to making available to the community additional more diverse point of entry into the Ombuds office. That the be implemented. As a preliminary note ICANN has already provided additional

inroad into the Ombuds office. For example female member of the senior leadership of ICANN have served as a first point of contact to raise complaints regarding harassment where the complaint didn't feel comfortable going directly to the Ombuds. There are other inroads as well such as the complaint office or members of the ICANN executive team that can be initial point of contact for comfortable expressing complaints that can then be brought to the ombuds. There might be a need to consider of how culture differences impact the Ombuds office consideration of any individual matter and whether supplemental resources are necessary to better service the ICANN community.

I'll read the other comment before open the discussion.

The current Ombuds has informed the board that he is developing a community Lee whereas network of trusted volunteers from the consultees to act as complaint intake for anybody that who is uncomfortable approaching the ombuds directly. We hope this also serves as a way to address the community concern. Additional information is needed to consider the full scope of the recommendation and any potential budgetary impact. The recommendation seeks to to have ICANN have a bigger staff in the Ombuds office as opposed to identify other ways to have supplemental resources available. The resources implication and leasable assessment could be far different. The recommendation even if limited to a need for supplementary resources on an as needed basis coupled with clearer process for intake based on the comfort level of the complaint still imposes a potential budgetary impact.

>> I think this is again an opportunity where we can recognize that even without an implementation team looking at the specifics of resource allocation for support of a -- of a more diverse system, the current Ombuds office is already looking at ways to improve this specific issue. You can't disagree with this. It also goes back to the earlier comment from the board. It's reality in terms of supply and demand. But I think it's an important to say clearly this is the case this is over arching for implementation of all our recommendations but also to -- for us to recognize that as the board as pointed out the Ombuds office is currently looking at ways totalis reach towards this goal regardless of source availability.

Thanks.

>> SEBASTIEN BACHOLLET: Thank you Cheryl. Other comments?

I will make one open question here. And I would suggest that we -- we start -- we stop the discussion here as we will -- we will finish with recommendation 7. We can go through 8, 9, 10 and 11 at the next meeting. Here my concern and maybe it's a wrong concern but it's how you keep the -- [Indiscernible] of committee something if you have higher staff, whatever level of staff or whatever thought of the community who are involved. The Ombuds is clear they are -- [Indiscernible] obligation. But the other how you can be sure about that it's something I guess we need -- it's need to be work out by the ICANN Ombuds office during implementation phase. But I am really struggling with this again. When we talk about gender violence and other diversity what it come first as a comment do we have the money for that. Yes we need to have it. From my point of view. therefore, I agree with Cheryl it must be a never arching discussion with the [Indiscernible] but we have to be very careful on what we -- what is asked here and how we implement it. Thank you.

Cheryl, please.

>> Thank you Sebastien. Just to react to your concern on confidentiality and anybody that -- other than in an employment contract basis or contractor basis was -- [Indiscernible] to assist

by the Ombuds office we have already within an ICANN context highest board of confidentiality require bid -- actually quite now well established nondisclosure and confidentiality agreement that are utilized with every noncome certainly. It's certainly not much of a stretch for an office such as Ombuds office who is passionately concerned about confidentiality to utilize standard legal tools to insure enforceable confidentiality. Thank you.

>> SEBASTIEN BACHOLLET: Thank you Cheryl. Any other comments?

If not and if you agree I suggest that we stop the call here and we have review the 7 first recommendation and the comments on those recommendations. And I suggest that we keep for the next call in beginning of February. To discuss recommendation 8, 9, 10 and 11. Bernard do you have some comments on how we can work between now and the next call I guess that you will be able to provide us a document with things we've discussed today and I will try to add some comments in the recommendation 8 through 11 and therefore we will be able to provide you the document before the next call.

>> Yes, I think that's the way to go Sebastien.

>> SEBASTIEN BACHOLLET: Thank you. I will discuss with Bernard and consider your suggestion Cheryl as soon as we figure out how -- there's two ways either we are able to finish in 90 minutes talking about last comments and therefore no need for more or we do the 8 through 11 comments about -- sorry 8 through 11 recommendation and the comments made about that and we have a next call to wrap up all and be sure that we have -- if I can say a second reading but we'll come back on to you. Thank you for your participation. For the one listening to the reading it's important that you send through the list your comments on that discussion. We hope that you will be participating at the next call because we need you. We are not enough participating today but I hope that it will help to