

ICANN|55 MARRAKECH

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The ICANN Ombudsman
after the IANA Transition

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History

Ombudsman set up in 2002-3

Bylaw V Describes Role

The Ombudsman Role at present

Bylaw V

The Charter of the Ombudsman shall be to act as a neutral dispute resolution practitioner of those matters for which the provisions of the Reconsideration Policy set forth in section 2 of article IV or the Independent Review policies set forth in section 3 of article IV have not been invoked. The principal function of the Ombudsman shall be to provide an independent internal evaluation of complaints by members of the ICANN community who believe that the ICANN staff, board or an ICANN constituent body has treated them unfairly

Fairness

The Ombudsman shall serve as an objective advocate for fairness, and shall seek to evaluate and where possible self disputes about unfair or inappropriate treatment by ICANN staff, board, or ICANN constituent bodies, clarifying the issues and using conflict resolution tools such as negotiation, facilitation and "shuttle diplomacy" to achieve those results

Origin

- A free, informal, speedy and cost-effective alternative to court action
- The history of the [Ombudsman model goes back over 200 years](#) and is Swedish in origin
- Ombudsman offices place a high priority on easy access and speedy and informal dispute resolution.

What is an Ombudsman?

- Investigator
- Impartial
- Neutral
- Confidential
- Protector of the people

The ICANN Ombudsman

- Independent, impartial, neutral;
- A reviewer of facts;
- An investigator of complaints about unfairness;
- An Alternative Dispute Resolution practitioner
- One of three ICANN Accountability systems
 - Ombudsman
 - Reconsideration Committee
 - Independent Review Panel

The Ombudsman Profession

- International Ombudsman Association
 - Mainly US and Canadian organizational
 - Has Standards of Practice adopted by ICANN
 - Training and Conferences
- International Ombudsman Institute
 - Mainly industry-based, parliamentary and other statutory Ombudsman offices

Who Tells the Ombudsman what to do?

- The Ombudsman is NOT ICANN staff
- Reports to the ICANN Board
- Writes Own Annual Report
- Has own budget sent to the Board by CEO, without change
- Can only be fired on $\frac{3}{4}$ Board vote

How it works

1. No ICANN employee, Board member, or other participant in Supporting Organizations or Advisory Committees shall prevent or impede the Ombudsman's contact with the ICANN community (including employees of ICANN). ICANN employees and Board members shall direct members of the ICANN community who voice problems, concerns, or complaints about ICANN to the Ombudsman, who shall advise complainants about the various options available for review of such problems, concerns, or complaints.

2. ICANN staff and other ICANN participants shall observe and respect determinations made by the Office of Ombudsman concerning confidentiality of any complaints received by that Office.

Who Can Use Ombudsman?

- Members of the ICANN Community
- Who are the “members”?
- Who are the “visitors”?
- Inclusive not exclusive
- May even be all Internet users

What Can the Ombudsman Investigate

- Raise diversity issues
- Complain about delays
- Complain about procedure as unfair
- Seek help with bullying
- Find documents in ICANN which I need
- Concerns about privacy

What the Ombudsman Cannot Investigate

- Look at internal administrative matters;
- Investigate personnel issues;
- Look into issues relating to membership on the Board; nor
- Investigate vendor/supplier relationships

Some Real Cases from 2015/6

- EIU Own Motion
- Complaint about Privacy of a Compliance Complaint ticket
- Complaint about policy on 2 letter second level names
- Complaint about criticism of a new GTLD
- Complaint about election process in RALO
- Incivility in CCWG working group

What are the Changes needed?

- ATRT2
- Suggestions from CCWG
- Ideas?

What does the ICANN Community Want

- Bottom up process

Next Steps

- Wait for other accountability discussions such as Human Rights Diversity etc
- Implementation
 - Develop changes to Ombudsman Bylaw
 - Changes to Framework
 - Outreach