

Frank Fowlie

Office of the Ombudsman

Remarks at Mexico City Public Forum

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Mr. Chairman, Peter Degnate-Thrush, President Paul Twomey, members of the Board of Directors and Liaisons, esteemed members of the ICANN community, ICANN staff, ladies, and gentlemen, thank you for your warm welcome here today.

Mr. Chairman, I have a number of items that I would like to share with you this afternoon. First, I can report that in 2008, my Office has received over 114 complaints and contacts from 24 countries (64 from the United States). Presently only two of these complaints had not been resolved or referred to another, more appropriate body or agency for resolution. The two matters are still under review or monitoring by my Office.

Outreach and peer Ombudsman activities remain an important role for my Office and since we last met in Cairo, I have conducted a seminar on Ombudsman evaluation for colleagues from three nations, and number of learners from Pepperdine University. The program was the first of its kind, and I was very pleased to have the opportunity to share ICANN based and developed research from as far away as the Fiji Islands.

The ICANN Office of the Ombudsman is now well into its fifth year of operation. In year one a Results Based Management Accountability Framework was developed.

<http://www.icann.org/ombudsman/documents/rmaf-08feb05.pdf>

This year we are working with a team of externs from the Strauss Institute at Pepperdine University to complete the summative evaluation of the Office of the Ombudsman. Four externs will complete 600 hours of practicum experience with the Office of the Ombudsman conducting this evaluation. The summative evaluation blueprint will be posted to the Ombudsman website in coming days, and comments will be received through the ICANN Ombudsman blog. We expect to have the evaluation complete before at the end of the fiscal year. The evaluation will be reviewed by an independent third party, and the results of the evaluation and the critical review will be posted.

Mr. Chairman, I can report that since the last ICANN Meeting in Cairo, I have completed three reports to the Board of Directors, consistent with the authority given to me in Bylaw V. One of the those reports has been posted on the website, and I have used discretion not to post the two others, as the circumstances of each complaint would have made it next to impossible not to reveal the identity of the parties concerned. Recommendations have been made to the Board in two of these reports, and I look forward to receiving feedback from the Board on these, and the outstanding recommendations from the report on file 06-317.

I am very pleased that the Board will consider approving or ratifying the Ombudsman Framework at its meeting this week. The Ombudsman Framework is the set of policy and procedures used by the Office of the Ombudsman in discharging the duties established in Bylaw V. The Board Governance Committee has enriched the document through its review. As far as I am aware this will be a first – where the Board of a corporate entity ratifies the operational framework for its Ombudsman program, and this speaks to the strength of the ICANN Board – Community - Ombudsman relationship, and the transparency of the dispute resolution process.

Next month I will attend the Brussels office for my annual work visit. I will attend the joint Forum of

Canadian Ombudsman – International Ombudsman Association meeting in April, and will conduct a panel discussion on the use of third parties in the ombudsman evaluation process. In June, I will present a paper at the 8th International Forum on Online Dispute Resolution, and will present a paper on conflict management mechanisms related to the new gTLD process. I will also attend the International Ombudsman Institute quadrennial meeting which takes place in Stockholm, and coincides with the 200th anniversary of the first Ombudsman institution with the Swedish Royal court.

I am pleased to report to the Board and the community that La Trobe University has awarded me a Doctor of Conflict Resolution based on my

dissertation entitled “A Blueprint for the Evaluation of an Ombudsman’s Office: A Case Study of the ICANN Office of the Ombudsman”.

Mr. Chairman, as is usual in my public forum comments, I would like to spend a couple of minutes talking about the principles of Ombudsmanship.

Today, I want to discuss the difference between the Ombudsman as a dispute resolution mechanism, and the other ICANN conflict management schemes, being a request for reconsideration made to the Board Governance Committee, and the Independent Review Panel.

First, the ombudsman process is an informal one.

The other processes are formal in nature. The

Ombudsman is not limited to a solitary method of looking at the dispute, but uses a range of tools to assist the parties to resolve the matter, if possible.

Second, the Ombudsman process is private, while the others are public. To the greatest extent possible, the Ombudsman will conduct his work in confidence, and out reporting is done in an anonymous manner. When the facts of a report to the Board may reveal the identity of a complainant, the Ombudsman has the discretionary power not to post these reports.

Third, the Ombudsman process can react quickly to matters and look into them in a timely manner; while the formalized processes, especially the arbitration

under the Independent Review, may take longer time frames for resolution.

Fourth, the Ombudsman process has a unique capacity to look at both individual and systemic issues; and to make recommendations for the improvement of ICANN systems and institutional fairness.

That concludes my report. Thank you for the opportunity to address the Public Forum this afternoon.