Comment

on the

Internet Corporation for Assigned Names and Numbers

Office of the Ombudsman

Statistical Comparison Report

Prepared by

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Introduction

In order to be both well understood and an optimal performing program, the Internet Corporation for Assigned Names and Numbers (ICANN) Office of the Ombudsman (the Office) has developed and initiated an exceptionally complete and deliberate assessment process. The "Statistical Comparison Report" (the Report) and this analysis (the Commentary) continue the Office's efforts to be the center of excellence in measuring and assessing Ombudsman operations.

Frank Fowlie ICANN ombudsman, posits in the Report that his Office is efficient, when compared to the Ombudsman for the Province of Saskatchewan, the Ombudsman for Banking Services and Investments (Canada, OBSI), and the United Nations Staff Ombudsman. In my professional opinion the Report fairly achieves this claim, making clear that based on the limited information available regarding total case-load, jurisdictionally appropriate case-load, staffing and over-all budget the ICANN Program is more efficient.

Selection, Qualification, and Process

Pacifica was appointed previously through a competitive bid process to do third party reviews of assessments prepared by the ICANN Office of the Ombudsman. Njeri Rionge, Chair of the ICANN Board Audit Committee made the selection based on several elements including written proposal, cost considerations, and overall qualifications. Pacifica's appropriateness to provide this service was previously presented in the Commentary on the Literature Based Evaluation, which is posted at the ICANN Office of the Ombudsman website at (http://www.icann.org/ombudsman/documents/literature-based-evaluation-nov06.pdf).

This Commentary was developed through close review of The Report, after consideration of the noted sources (all of which are available on-line) and on going discussion with the ICANN ombudsman. This Commentary was also

informed by the author's previous research into the ICANN Office of the
Ombudsman, as well as several other assessments he has conducted.

Challenges

As was the case with the Literature Based Evaluation Report, the absence of general literature, publicly available comparable data, and accepted assessment protocols was evident. More specifically, The ICANN Office, as an on-line executive ombudsman is unique. None of the three comparators is either executive in nature or an "on-line" mechanism. Further, accepting that there is no way to compare "apples to apples," in terms of program type, the data is also significantly inconsistent as neither the OBSI nor the United Nations Staff Ombudsman make budget information publicly available, and the time frames and durations of data vary.

The ICANN Office is not responsible for either the lack of acceptable comparators or data shortcomings, but these challenges must be noted.

The Report

The following table summarizes the essential information from the report.

PROGRAM	ICANN	SASKATCHEWAN	U.N.	OBSI
Staff/FTE	1.08	19	6	17
Budget	$325,000^	$1,581,000^	Unknown	Unknown
Intakes/years	1692/1.3	2913/1	1386/3	308/1
Cases*/years	348	639/1	Unknown	Unknown
Jurisdiction<	36	639	Unknown	164
Intakes per Staff per Year	1567	153	154	18

Cases are defined differently by each program, but are generally considered to require some staff time and action, where as intakes and non-cases require significantly less.

<*Jurisdiction means the issue is clearly within the design parameters of the given program and likely directly referred to in empowering documents.*

^All budget figures are in Canadian Dollars.

Findings

The central finding of the Report, even with the somewhat irregular data, is that the ICANN Ombudsman Office is far more efficient than the comparators. This claim is based not only on number off intakes per staff but may be claimed considering: cases per staff; jurisdictional cases per staff; investigations per staff as well as cost per intake, case, jurisdictional case and investigations.

A secondary finding emphasized in the report addresses the number of intakes and cases versus the number of jurisdictional cases. On page eight, Fowlie writes, "…The ICANN Ombudsman, in relative terms, assists or investigates, and has jurisdiction over issues complained about in stride with a classical Ombudsman's Office." While the rate of cases being investigated or with assistance rendered per intake was indeed comparable – 4.8 for the ICANN

Program and 4.5 for Saskatchewan's classical program, The ICANN program experienced 47 intakes for each jurisdictional case while Saskatchewan had only about 19 intakes per jurisdictional case. This means an intake in the Saskatchewan program was more than twice as likely to be jurisdictional. A simple explanation exists for this difference – a single letter writing campaign generated many intakes for the ICANN Program that were NOT jurisdictional. Factoring out these intakes though, the ICANN Program significantly out paces the Saskatchewan Program in ratio of intakes to jurisdictional cases.

These number though suggest another and in my professional opinion much more important finding: the success the ICANN Ombudsman Office has achieved in making itself known to potential users. For each of the three comparators the potential user population is extremely well defined (The citizens of the Province of Saskatchewan; A subset of employees at the U.N.; and the federally regulated financial institutions of Canada) and in fact limited by comparison to the potential ICANN Ombudsman Office users. That the ICANN Office is generating numbers in any category comparable to these older, more established and larger programs means the ombudsman is making his program known and accessible. This is a key determinant not only of program efficiency, but program value and is to be commended.

Considerations

Ensuring Effectiveness, Focusing on Impact
The ICANN Office of the Ombudsman, in addition to executing perhaps the most rigorous assessment process of any ombuds program known, has an additional distinct advantage in determining its impact – a clearly espoused and highly intentional objective. The Results Based Management and Accountability Framework for the Office describe this objective as:

> … to ensure that the members of the ICANN community receive

fair and equitable treatment and administrative fairness throughout
ICANN and its various constituent bodies.

While this Report and its comparisons are worthwhile, future endeavors to understand the contribution of the Office of the Ombudsman to ICANN, should target attainment of this objective. Several activities to examine the degree of achievement are already planned, and these should proceed with all appropriate support from the Office, the organization, required externals, and the ICANN community as a whole.

Building Meaningful Comparisons

If we accept that benchmarking and looking to other organizations for best practices should also continue, and thus the ICANN Office of the Ombudsman will have to compare itself to other programs in the future, it is important that more similar programs and at the very least more comparable data sets are discovered. Again, while this Report and its comparisons are worthwhile, the total value of the exercise is significantly limited by the different nature of the programs involved and the varied data. The use of publicly available data made this Report quick and easy to execute. Should ICANN desire additional comparisons to other programs in the future, collaborative unifying of data sets across multiple programs, likely executed by an agent external to all the studied programs, while time consuming, would result in greater validity and benefit for ICANN, the other programs, and the field as a whole.

Conclusion

The ICANN Office of the Ombudsman has developed and initiated the single most complete, deliberate, and meaningful assessment process deployed in the ombuds field to date. This Report, as a component of that assessment process, does allow the Office to declare itself to be "efficient."

In summation, the Report engaged a reasonable methodology that lead to factually accurate findings that well represent the reality of the ICANN Office of the Ombudsman's performance as regards intakes, cases, jurisdictional cases, staffing and budgets.

Including these findings with previously established understandings about the Office makes it possible and in fact easy to declare the ICANN Office of the Ombudsman contributes both economic and humanistic value to ICANN, while meeting its core objective"… to ensure that the members of the ICANN community receive fair and equitable treatment and administrative fairness throughout ICANN and its various constituent bodies." Future assessment efforts should focus on effectiveness of the Office.

Author

John W. Zinsser, co-founder of Pacifica Human Communications, LLC., designs and executes mechanisms to determine the value return and effectiveness of conflict management systems, especially ombuds programs. Having conducted the three largest ever external assessments of ombuds programs, and written on the subject for more than a decade (beginning with his 1995 Masters of Conflict Resolution thesis "Perceived Value of Considered Approaches to Internal Conflict in Business Organizations,") he was also awarded the Office of Personnel Management's President's Award for Outstanding Federal ADR program for, among other reasons, what the judges described as exceptional accountability initiatives for his Ombuds Program.

Guidance

The information herein is of a general nature and not intended to address any particular individual or entity's situation. No one should act upon such information without appropriate professional advice until after a thorough examination of their actual situation. These concepts have not been vetted for accordance with any applicable law. As with any guidance potentially impacting rights, all are encouraged to confer with legal counsel.

While Pacifica Human Communications, LLC., endeavors to provide accurate and timely information, there can be no guarantee that information remains accurate as of the date received or reviewed, and may not continue to be accurate in the future. The estimates and opinions offered here are based on Pacifica's research, emerging best practices, and information in the public domain.