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Office of the Ombudsman

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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 this fiscal year, 2008 - 2009, my Office has received over 93 complaints and contacts from 22 countries (with 50 of these from the United States). Presently, only three of these complaints have not been resolved or referred to another more appropriate ICANN body or outside agency for resolution. These three matters are still under review or are being monitored by my Office.

30 of these 93 complaints were within my jurisdiction.

This continues the trend that the overall number of complaints submitted to the Office of the Ombudsman has been steadily decreasing, while the number of complaints directly related to issues of fairness concerning ICANN acts, decisions, or inactions has been steadily increasing.

Outreach and peer Ombudsman activities remain an important role for my Office and since we last met in Mexico City, I have attended and made a presentation at the 8<sup>th</sup> International Forum on Online Dispute Resolution at the University of Haifa. This month I attended the 200<sup>th</sup> Anniversary of the institution of the Swedish Ombudsman, in conjunction with the

quadrennial conference of the International Ombudsman Institute. I was pleased that ICANN's work on Ombudsman Evaluation was noted at this meeting.

I have also attended and made a presentation at the joint Forum of Canadian Ombudsman - International Ombudsman Association conference in Montreal. I conducted an annual work week in our Brussels office, and met with Ombudsman colleagues from the European Parliament.

The ICANN Office of the Ombudsman is now close to the completion of 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 the Office of the Ombudsman worked 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 completed 600 hours of practicum experience with the Office of the Ombudsman to conduct this evaluation. This review found that the Office of the Ombudsman was appropriately constructed and operating at high level. While I am very pleased with the quality of the work done by these externs I do feel there are certain areas where the depth of the evaluation and its conclusion could be strengthened.

I believe that it would be worthwhile to repeat some

parts of the evaluation, again using Pepperdine externs to conduct the work, but under the supervision of an experienced examiner who can direct the externs without compromising the independence of the review.

Mr. Chairman, I can report that since the last ICANN Meeting in Mexico City I have completed one report to the Board of Directors, consistent with the authority given to me in Bylaw V. This report has been posted on the website. The investigation and report into this matter represents the flexibility and capacity of the Ombudsman to resolve issues in a timely manner.

The situation involved several community members contacting the Office of the Ombudsman over a very short period of time with independent complaints

regarding the repayment of expenses. The Office of the Ombudsman immediately assisted in the resolution of the individual complaints and completed a draft report to the Board with a set of recommendations, all within the same week. These recommendations, and others, are before the Board of Directors, and I look forward to receiving responses from the Board on all these matters.

I am very pleased that the Board has ratified the Ombudsman Framework since the last ICANN meeting. As far as I am aware this is a first – where the Board of a corporate entity ratifies the operational framework for its Ombudsman program; this speaks to the strength of the relationship between the ICANN

Board, the Community and the Ombudsman and the transparency of the dispute resolution process.

In the coming months I will be attending the United States Ombudsman Association annual meeting in Colorado. I will also be serving as an expert faculty member with the International Ombudsman Association as they orient newly appointed Ombudsman from various international organizations.

Mr. Chairman, as is usual in my public forum comments, I would like to briefly talk about the principles of Ombudsmanship. Today, I want to discuss the importance of the role of an authority, agency, or government when taking into account an Ombudsman's recommendation. In a previous public



forum report I indicated that it was incumbent of the Ombudsman to put forward recommendations, when necessary, to redress unfairness or to repair administrative weaknesses; recommendations which were well considered, attainable, and realistic.

Mr. Chairman, the reciprocal of this use of moral suasion rests with the authority receiving the recommendations to act on them in one of three possible ways: to reject the recommendations and provide reasons why they cannot be implemented; to accept the recommendations and to implement them; or to accept the recommendations, implement them and further bolster the improvements with their own innovations.

While attending the 200<sup>th</sup> Anniversary of the Swedish Ombudsman, I heard my many colleagues from around the world speak of need for the authority to implement redress. In some countries failure to act on the Ombudsman's recommendations could result in criminal proceedings.

I am pleased that the Board has ratified the Ombudsman Framework which includes the provision that the Board should respond to the Ombudsman within 60 days following the submission of recommendations. This is a very positive step in the relationship between ICANN and the ICANN Ombudsman and underlines the importance of Community confidence in ICANN's ADR processes.

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