



OFFICE OF THE ICANN
OMBUDSMAN
Creating Dialogue. Affirming Fairness.

CHRIS LAHATTE
LLB M Mgt (Dip Res) FAMINZ (Med/Arb) BARRISTER

12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536
Tel + 64 4472 0777 Fax +64 4 471 1660
E-Mail chris.lahatte@icann.org

ATRT Recommendations Part 24 Office of the Ombudsman

At the Costa Rica meeting, I discussed with the board the implementation of the recommendations in relation to the office of the ombudsman. There were three issues which were of importance in my report at that meeting.

1. Form a new more formal relationship with the Board through the BGC or other Board Committee.
2. Prepare a statement about the framework and the intent to review in the future.
3. Prepare a comparison to check the present operations with similar institutions, by way of a checklist.

The first of these was completed by the resolution passed by the Board on Saturday, 23 June 2012. I have had two meetings with the Compensation Committee since that time. Because the resolution was only passed during the Prague meeting, it was difficult to schedule a meeting in Prague with the Executive Committee, but now that the resolution is in place a regular schedule slot will be allocated at each meeting.

I have prepared a more detailed position paper about the framework and review presented to the meeting at Costa Rica. In summary I said that there have been no significant changes, which in my view justify such a review. I think it is premature and that if there is a strong feeling that the framework is inadequate then this would have been manifested in reaction to the way the office of the ombudsman operates. While it is important to review such documents, perhaps this should be in some years.

The last issue was to prepare a comparison to ensure that the office of the ombudsman is maintaining international standards.

At the Costa Rica meeting I had suggested that it would be necessary to research this matter further, and that I hoped to report the results of such research at either the Prague or the Toronto meetings.

I have now had two excellent opportunities to engage in peer-to-peer discussions about different opportunities and comparison of metrics. I am still considering the material received at both the conference and the training session, and the application to the ombudsman practice at ICANN. I have some preliminary views on two areas where I think some development is needed. The first of these is in a protocol for dealing with complaints about the ombudsman, and the second is the length of the term of appointment. The first of these is relatively noncontroversial, and is a process in place in most offices. The reason given for longer terms is that it does ensure the independence of the office across a changing board. Before making a detailed recommendation on this issue I would prefer to have some more detailed analysis and evidence. However I do intend developing a protocol for complaints. I expect that I will have something for the board to consider, likely before the Toronto meeting.

I also received a very valuable training on handling complaints by unreasonable complainants. The New South Wales ombudsman Bruce Barbour has developed a sophisticated training module, which he presented at the Hong Kong training course I attended. There are many useful ideas. I have already had use of the material in considering a complaint.

The other issue which impinges on compliance with international standards is the case management system. The system I have inherited from the past Ombudsman has had some IT issues. The primary issue is that the software is a somewhat outdated, and has had some vulnerability in the past. Confidentiality is a key element for any ombudsman, and security issues are therefore critical. The system is secure at present. I am however actively developing a new case management system and I am at this stage of asking the developer to scope and quote. This will not be a new case management system, but an existing developed system used for similar organisations.

Recommendations

1. It would be good practice to consider setting up a mechanism for complaints against the ombudsman. Offices of the ombudsman around the world do have such systems. Fortunately, while there has been some vigorous correspondence from time to time, I have been spared such a complaint, but good international practice would require a policy in place. I will draft such a policy for consideration by the board.

2. I will continue to develop relationships with other ombudsmen and training courses and conferences, to enable me to get the comparison required by the board to ensure that the ICANN ombudsman maintains appropriate international standards.

3. With the development of my new case management system, I intend incorporating some of the ideas, particularly from the Hong Kong training session in relation to efficient case management.

Chris LaHatte