



Comment
on the
Internet Corporation for Assigned Names and Numbers
Office of the Ombudsman
Client Survey Report

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Executive Summary

The Internet Corporation for Assigned Names and Numbers (ICANN) Office of the Ombudsman (the Office) is executing a first-in-class assessment process. One assessment step (please see the other completed assessment components at www.icann.org/ombudsman/program.html) was a Client Survey, which was codified into a report (the Report). This Commentary verifies the claims made in the Report, offers alternative analysis and provides recommendations intended to inspire future-oriented action impacting Office of the Ombudsman operations.

In the Report, Frank Fowlie, ICANN ombudsman posits that Respondents to the Client Survey (with limited, notable exceptions) were “generally satisfied” with services provided by the Office. Upon review of the Survey results and the Report this indeed appears true. This finding is basically positive, but there are concerns, among these: The Survey return rate was limited; Narrative responses tended to negative; and The majority of responses were from people with issues outside the mandate of the Office. This last point is the most important.

The Report, and especially the Survey results themselves offer nuanced and valuable information about both the Office and ICANN as an institution. Readers are strongly encouraged to examine each of these source documents and especially consider the narrative responses from the Survey.

The reasonably constructed survey instrument asked 17 questions of differing types, with multiple sub-elements for many of the questions. The Survey queried far more than satisfaction. Perhaps better thought of as a “user experience survey,” the tool also asked: How well Users actually knew the Office; How they accessed the Office; and How they rate the Office’s website. The Survey process, in spite of any shortcomings should definitely be repeated at least annually, if not more frequent intervals.

Twenty-two percent of the 387 invitees for a total of 85 responses, answered all or portions of the Survey. A commercial third party hosted the Survey, to assure

Respondent anonymity. The Report clearly conveys the actual answers provided by Respondents and offers interpretations of the responses.

Summarizing, the Survey engaged sound methods and the Report offered accurate findings, as well as many reasonable interpretations. It was greatly affected by the large number of Survey Respondents with issues outside the design intent and mandate of the Office.

This Commentary discusses certain considerations likely to result in Office enhancement (improving the quality of referrals and follow-up on those referrals) as well as survey design and process improvement (repeat invitations, make survey questions clearer, and ask about fairness). Irrespective of these possible improvements, the ICANN Office of the Ombudsman was found to be generally satisfactory to Survey Respondents, especially those with issues firmly within the mandate of the Office. Further, the Office provides assistance to those with issues outside its jurisdiction, by helping them identify other potential resources. **Therefore, the Office of the Ombudsman is likely serving, at a more than acceptable level and has once again proven itself to be potentially the single most completely assessed Ombuds Program in existence.**

Introduction

In order to be both well understood and an optimal performing ombuds 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 *Client Survey Report* (the Report) and this analysis (the Commentary) of that Report are two components of that total assessment process. (Please see other completed assessment components and the management plan at www.icann.org/ombudsman/program.html.)

Commentary Purpose

The Report conveys the degree to which those who use the Office and responded to the on-line Survey were satisfied with the experience of working with the Ombudsman. The Commentary verifies claims made and analyzes the information presented, in order to increase the veracity of the Report and contribute to the improvement of the assessment process and Office performance.

ICANN, through the Ombudsman, requested this Commentary to assure the factuality of the Report's assertions. Simply stated the Commentary answers:

- Was the methodology sound?
- Were the findings/interpretations accurate and adequate? and
- Do the findings suggest adjustments to the Survey process, and/or the Office?

Selection, Qualification, and Process

Pacifica Human Communications, LLC. was appointed to conduct third party reviews of assessment components prepared by the ICANN Ombudsman, as result of a competitive bid process involving two other potential providers. Njeri Rionge, chair of the ICANN Board Audit Committee made the selection based on elements including: written proposal, cost considerations, and total qualifications.

Using a highly qualified, third party to review the assessment components provides fact-checking and integrity testing of the Office's data and assertions, without breaching the confidentiality (actual and perceived) and independence of the Office. This process results in a degree of confidence that is higher than that if only first party review was conducted.

complete assessments of large corporate conflict management systems and other ombuds programs, Pacifica demonstrated singular experience to review the ICANN Office assessments. Pacifica's co-founder, John W. Zinsser, having written on the subject for more than a decade has been both a pioneering force and consistent voice for measurement, evaluation and effectiveness assessment in the conflict management field. Zinsser is not only a theorist and researcher though; he also served as an ombuds. He was 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 at the Agency for Healthcare Research and Quality.

Context and Overview

While the two previous Pacifica commentaries on the Ombudsman's reports focused on fact-checking, this Commentary engages in more interpretation. The results of the Survey are the "facts." These "facts" are presented verbatim in Appendix Two of the Report. There is no "arguing" these are the facts; this is what people said and especially the narrative answers offer a candid, and earnest look at Users' experiences of the Office and perceptions of ICANN, writ large. There are though, issues of perspective for Survey responses, which must be considered. That is, certain responses demonstrate that many, perhaps even most, Respondents may not understand the intent, purpose and process of the Office. This in itself is important learning for the Office and the organization, and must be addressed. Continued efforts to educate potential Users, but especially actual Users must continue and even expanded.

The Satisfaction Question

Organizations enact ombuds programs to deal with conflict. Measuring an individual's or a collective's satisfaction with a conflict management program is not straightforward. Asking a person who brought forward a problem (who was likely predisposed to dissatisfaction) if the manner of the response was satisfactory, is delicate at best. Further, there is no standing evidence that "satisfaction" with a conflict management process equates in any way to any actual positive benefit or improved outcomes for either the individual user or the institutional host of the program. A generally accepted axiom though states that, if

the one who utilizes the process is satisfied, they will be more likely to use it again if need be, or encourage others to use it, offering the process additional opportunities to achieve its mission. There is no proof though that even this is the case. Satisfaction with the process is considered “good” but is in fact unknown whether it contributes to program effectiveness or value creation.

Beyond the core question of the relevance of satisfaction, three critical contextual elements must also be recognized as impacting this Survey and the Report. So pervasive are these elements that to continue without carefully considering these would be unfair to the Reader and the Office, and potentially unethical.

First, and as was also addressed in both previous commentaries, the ICANN Office is an Executive Ombuds Program – meaning it is housed within an institution but serves a population external to that institution. This is unquestionably the right design for the purpose of the Office. Few of these types of ombuds programs exist and almost no information regarding performance of these programs is known. What is publicly known about executive ombuds program performance has been generated by the ICANN Ombudsman and this commentator.

While more is known regarding the performance of organizational ombuds (those who serve employees or students within the institution that house the ombuds) and classic ombuds (ombuds who are hosted by a political entity to serve a given public population often defined by geo-political boundaries) this information is far from complete, standardized, widely accepted or uniformly practiced. Organizational ombuds programs have generated most of what is publicly known about the measurement of satisfaction. Many of the Survey questions employed were in fact informed by questions previously used in surveys conducted by organizational ombuds (including by this Commentary’s author).

The relationship between organizational ombuds and their users dramatically differs from that between an executive ombuds and its users. The organizational ombuds more likely works with individuals or groups with ongoing and enduring relationships, all of whom are likely employed by, or otherwise engaged in

processes (student/faculty) of a single entity and thus on “the same team.” This dramatically affects strategies and tactics of the ombuds, as well as how users will perceive the ombuds and therefore be satisfied with them.

The ICANN Office serves a population that is not nearly as unified in their grouping: those with issues relating to internet assigned names and numbers. This distinct difference in relationship effects expectations of service and satisfaction. This in part explains why scores for The Office on certain questions tend lower than for certain organizational ombuds offices, which have asked almost exactly the same questions. It is the author’s professional assertion that these lower scores are in part due to the nature of the Users’ relationship to ICANN and The Office.

The second related contextual issue that must be acknowledged is one of service/communication medium. The satisfaction surveys executed by organizational ombuds have considered relationships in which exchanges and service are provided by telephone conversation or face to face, and, with very rare exception NOT via email or internet communications. By stark contrast, the Office, in appropriate alignment with ICANN’s activities and mission, provides services exclusively via email/internet communications. (In fact, every Respondent to the Survey, was invited to take part by email, in response to an email/or web based complaint form through which they initially contacted the Office). It is impossible to know what impact this difference in communication medium had on the Survey results, but it did have an effect. Unfortunately though, there are NO OTHER comparators available, other organizational ombuds programs. Thus comparing the results with other programs, is a complex proposition. These comparisons, while potentially offering some value also raised the commentator’s initial concern because of the stark differences. Thus any comparisons MUST be considered academic first and foremost, and not direct comparisons.

Finally, and it cannot be overstated, **the majority of Respondents to this Survey had issues for which the Office was not intended** (see responses to Questions Four and Five, especially when Five is screened for high and medium jurisdiction

on pages 44 and 45 of the Report.) Sounding the satisfaction of those who accessed a system to resolve conflict, only to find it did not apply to them almost completely guarantees low satisfaction.

It is against these realities and in these contexts that the Survey, the Report, and this Commentary must be considered.

The Report

In the Report, Frank Fowlie, ICANN ombudsman states that the Office has satisfied those Users who responded to the Survey. The responses do fundamentally indicate this to be the case. While there is certainly positive “news” in this, there are also disconcerting information. The analysis that follows will examine and develop both of these.

Limitations

Only 22 percent of those invited to take the Survey responded. While not unacceptably low, this is lower than the response rates for ombuds satisfaction surveys executed by organizational ombuds in corporate, government, and academic settings. This could be due to the “relational distance” of the executive ombudsman model, or the difference between “human” and “mechanical” contact as cited above. More could have been done to increase this response rate and in the future should be (please see Recommendations).

The 78 percent of invitees who did NOT respond could be satisfied with their experience to a higher, lower, or exactly equal degree as those who did respond. There is no way to say. The common bell curve found in most survey responses generally flattens, suggesting that the “very satisfied,” and the “very unsatisfied” are motivated to respond, while the middle position is somewhat less likely to. Based on the answers to the primary question on satisfaction (Question Five), this author suggests more of the actual Respondents are positively than negatively disposed.

Also, responses to the check box questions are generally moderately more positive than the narrative responses. This suggests either: Those motivated to write narratives had actual lower satisfaction with the Office, or (and in the author's opinion more likely) disappointed with the lack of a response in a commercial situation (registrar or domain name), which is outside of the Office's jurisdiction, Users expressed their frustration in the only place they could— the narratives of this Survey. The Survey design enabled this situation, by making narratives more likely when the Respondent had an issue not intended to be addressed by the Office. Thus, narratives appear more negative, and harder to quantify.

Content

Accepting these discussed limitations, and following the format of the Report, this Commentary will consider each question posed, examine its purpose and results.

1.1 How did you hear about the Office of the Ombudsman?

Understanding how those who contact the Office come to learn of it is essential. Being able to refine approaches, broaden outreach in certain venues and/or diminish it in others can only be done well, if it is understood how those who are getting to the Office do so.

That almost 75 percent of Respondents discovered the Ombudsman through the ICANN website or internet searching shows the Office to be well aligned with the purpose and process of ICANN. This must be considered positive. ICANN is an internet organization. The Office is an internet based dispute resolution process. While this degree of on-line communication will raise immediate concerns for many ombuds practitioners, any such alarm is not founded in this instance. The nature of the Office, the size and breadth of its constituency, and the functional purpose of both ICANN and the Office make this mechanism for discovering and communicating with the Ombudsman more than acceptable, so long as one accepts the limitations it has for complete confidentiality. Additionally, Fowlie's assertion on page seven of the Report that, "...presentation of the Ombudsman's website is vitally important..." is completely accurate. A full and proper web presence is the gateway to the Office.

1.2 Can you tell us about your understanding of the Office of the Ombudsman?

The results of this question indicate the Office has more to do in order to ensure Users have a full and proper understanding of its processes. That the Office's potential universe of Users numbers as high as a billion, it is ludicrous to suggest the Office needs to completely educate all potential Users. Helping a broader spectrum of people to be AWARE of the program remains a worthwhile goal. However, it must not be mandated that all potential Users UNDERSTAND the program. But that only 24 percent of Respondents understood the Office to practice ADR, or that 36 percent did not know that the mandate focused on fairness, shows there is room for the Office to improve the knowledge of those who do in fact contact the Office.

The wording of this question creates some ambiguity. Was the purpose to determine Users' perceptions before working with the Office? Or discover what they learned about the Office through working with it? This question would benefit from being better placed in time— i.e. "Explain your understanding of the Office PRIOR to communicating with us." – and subsequent versions of the Survey should do so. It would then be possible to demonstrate if the Office meets the required educational burden, or if environmental and contextual realities dominate User understanding.

Given the high percentage of Users accessing the Office with off-mandate issues, this question is especially very important. Improving the responses and knowledge of those who do use the Office could well be a major performance objective for the Office.

1.3 How long ago did you access the Ombudsman's services?

The initial deployment of the Survey occurred after approximately 18 months of the Office providing service. As such, it is wise to determine if Respondents are from a particular period or other. New ombuds programs of all types generally experience an "Inception Bump" in case activity. That is, after being established, a backlog of un- or under-addressed conflict tends to provide higher case levels. According to the Report though, on a month-to-month basis, case levels have been generally consistent. How the "aged" quality of Respondents' cases affected

Survey results is unknowable but certainly actual. Continued monitoring of this question in subsequent iterations of the Survey is needed.

The responses indicate 61 percent of Respondents contacted the Office more than six months earlier. While approximately balanced (two-thirds of responses come from Users in months 1 – 12 , and one-third from Users in months 13 – 18) it would be more common for recent Users to be OVER represented in the return rate. Whether satisfied or not, the proximity of their case to the Survey should have driven more of them to respond. This raises the question why were those who had contacted the Office in the six months just preceding the Survey not better represented? Some potential answers: Were they better served and therefore more satisfied and less likely to respond? Were they not done with their cases? Not motivated to answer due to some other issue (confidence in the system, satisfaction level, the nature of cases)? There is no way to tell for certain. However, Fowlie’s suggestion in the Report— “This indicates to me that there are a number of Respondents who have a desire to reach out and have voice over their issues...” seems inadequate. This situation deserves more attention, and repetitions of the Survey may well provide some clarity.

1.4 What did you contact the Ombudsman about?

This seemingly innocuous question raises the single most important point of the entire Survey – the appropriateness of the cases brought to the Office. This has been heavily commented on already, but deserves additional attention. As the Report clearly states: “Less than 30% of correspondents contacted the Office about Jurisdictional issues, and 42% contacted the Office about domain name and registrar issues.” That a full two-thirds of Respondents to the Survey had cases that did not align with the purpose of the Office clearly predicts that satisfaction scores will be low. Something must be done to: 1. Educate those wrongly accessing the Office about its mandate, purpose and scope; and 2. Assure those with issues outside the Office mandate get some assistance with the challenges they face, from somewhere. ICANN must consider this, as currently those accessing the Ombudsman believe ICANN and the Office to be the source of assistance with these issues. (Please see Recommendations.)

1.5 If you used the Office’s services, how well did the Ombudsman meet your expectations with regard to the following?

This is the single most important question in the Survey. It is both well structured and executed. The Report does an outstanding job parsing the data to make several important distinctions, premiere amongst these the importance of jurisdiction to User satisfaction. By “screening” this question by jurisdiction and outcome, Fowlie has yet again created a best in practice process that the entire organization conflict management field would do well to study and deploy. In fact, the data from this question deserves more attention then this Commentary can provide. That said, it must be recognized, the results of this question, especially when considered from the omnibus perspective— that is undivided by jurisdiction and outcome, are NOT overly positive. With a high score of 6.79 (out of 10) for “Respect” and a low of 4.13 for “in providing an appropriate referral,” the omnibus score is, at best, passing. Especially for issues of practice, (confidentiality, timeliness, professional manner, etc.) scores above 8.5 would be more typical of the results achieved by organizational ombuds.

When responses are “sorted” by jurisdiction and outcome, the scores do dramatically polarize. As one would expect, those with cases within the Office mandate where the case was resolved, and the Ombudsman took an active role, had much higher scores with an “Overall” score of 8.0. By contrast, the “Overall” score for the Office in cases where the issue had to do with “My registrar or domain name,” (i.e. out of jurisdiction) and the Office “declined to investigate,” (i.e. low Ombudsman action) fell to 2.0. In both the above examples though, these scores are constituted of a very small percentage of all Respondents. The very satisfied Respondents with high jurisdictional cases with clear outcomes from Ombudsman action number only three (3). The far less satisfied group with non-jurisdictional cases where the Ombudsman declined to investigate number only six (6). As this Survey is repeated and these screens reapplied to new responses, the data set will become more complete and meaningful. Then, with that data in hand, it will be a better time to determine the true satisfaction rating of the ICANN Office of the Ombudsman.

On page 13 of the Report, there is an excellent graph entitled, “Satisfaction based on Jurisdiction and Outcome” (reproduced below). This graph clearly captures the essential issue described in the paragraphs above, with the exception of the small respondent sets.

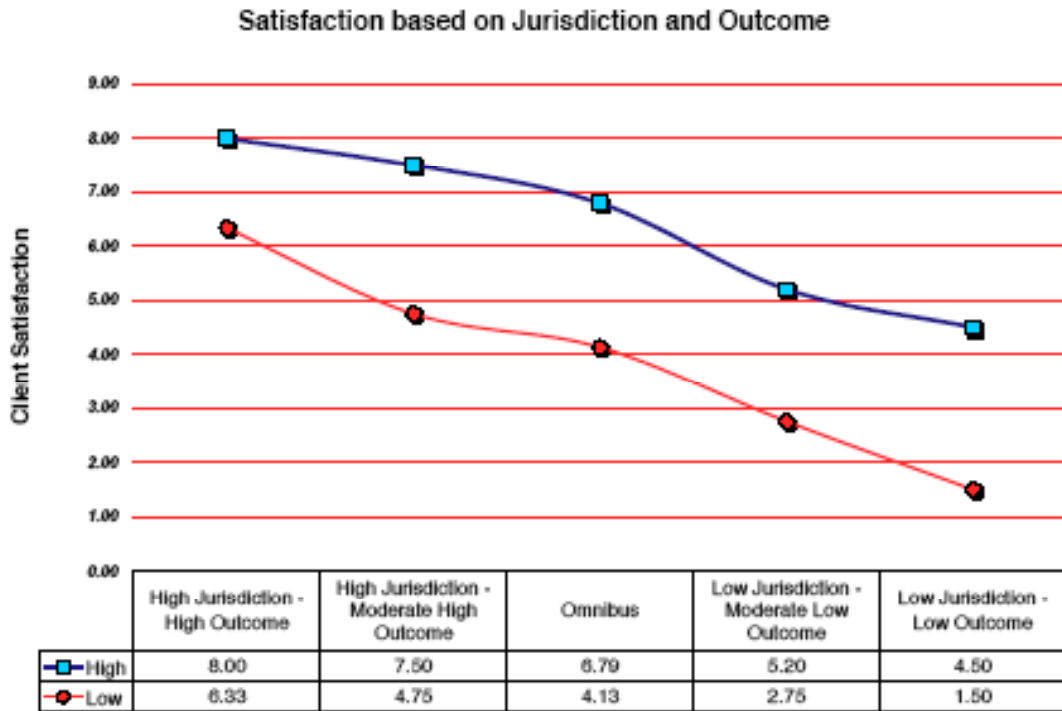


Figure 1

Analyzing the responses, an additional important point emerges: The range between high and low is approximately half as large for High Jurisdiction/High Outcome (1.67) as it is for Low Jurisdiction/Low Outcome (3.0). This means that there is greater uniformity of experience among those with “satisfactory” experiences with the Office than those with “unsatisfactory.” This is a potential field critical discovery. ICANN through the assessment of the Office of the Ombudsman continues to contribute important new thought to the field.

1.6 If you did not have the option to correspond with the Ombudsman about your issue, where would you have gone to get help?

This question serves two important purposes. It provides an insight into options besides the Office that Users might have otherwise employed. It also makes clear the degree to which Users had knowledge of these options. The mental process of

“removing” the Ombudsman Office from the list of possibilities often makes clear the benefit and even the value of having the Office as an option.

The findings for the ICANN community bear this out. Over half of all Respondents indicated that had it not been for the Office, they would not have known where to go. This means that the Office plays an important navigational role: helping individuals without knowledge of where to go, discover possible routes to resolution. This is true even for those Users with cases that are not within the jurisdiction of the Ombudsman. The Office, therefore, aids indirectly those who it is not intended to assist, by providing them with support in finding more appropriate resources.

Responses to this question also suggest, had it not been for the presence of the Office, Users would likely have accessed more formal and costly options to address issues. The second and third most common choices, had the Office not been available for all Respondents were, “consult a lawyer” and “initiate legal action.” Each of these answers would likely incur significant costs for the Respondent and could possibly have resulted in processes that would have later consumed resources for the Respondent, other members of the ICANN Community, and even ICANN itself. It is possible in this way, by preventing future formal actions, the Office creates value for Users and ICANN. This issue is addressed again in question 1.9 below, but requires more study before full claims of value creation can be substantiated.

1.7 What was the result of your communication with the Ombudsman?

On page 15, the Report states, “This question measured how the correspondents considered their complaints to have been closed...” The question would have better achieved this intention by asking more directly, “How did this case resolve?” Or the like. The current framing is too nebulous. This is borne out by the significant difference between results for this question, and the Office’s own statistics for case closings. For example, the Office statistics claim the 45 percent of all cases were closed via referral, while only 15.5 percent of Respondents thought that was the method of closure. In the Report, Fowlie suggests this difference is due to, “...a mass of those who received either self-help information or referrals did not participate (in this question *author’s addition*).”

The author disagrees and believes rather this difference suggests two possible and related conclusions: Users do not perceive closing methods as does the Office, and the method in which the Office communicates its closing process to Users is not as effective as it might be.

The ICANN Office, as an executive ombudsman, is empowered to make judgments regarding cases which organizational ombudsmen are not. Organizational programs often struggle to determine when a case is closed and how it was closed, because the closed status is actually determined by the user. For the ICANN Office, being able to decide when and how an issue is raised a different problem, that of separation with User perception.

1.8 If you received a referral or self help information from the Ombudsman, did it assist you in resolving the matter?

As the Office tracked 68 percent of all cases as having been closed through referral and self help information, it was essential to examine the degree of satisfaction with this process. The well-framed and positioned question further extends the issue of a perception gap between the Office's definition of how a case was closed and User perception of closure, raised in question 1.7 above.

As the Report states on page 17, "...almost two and a half times as many people replied to the qualitative question (1.18) as they did to the quantitative question (1.17) on the same subject matter." This could have been controlled in Survey design by making the qualitative question dependent on the answer to the quantitative question. But more importantly, this difference in response rate strongly demonstrates the gap in User perception of the closing event and the actual case closing mechanism.

Beyond the perception issue though, the results of this question also make clear the Office needs to examine its referral and self help process. At this time, they scored as mediocre at best. Fully 67 percent of those with issues regarding their registrar or domain name (outside of Office jurisdiction) found referral and self-help information NOT helpful. As so many coming to the Office bring cases of this nature the strategic choice must be made— improve the referral and self help offered to them, or draw a hard line that makes clear it is not the Office's mandate

to assist them, and therefore, remove them from the satisfaction Survey. Given the Report's statement on page 25 where it considers future actions, "...attention should be paid to finding methods of monitoring and reviewing both self help and referral closings..." it would seem the decision has been made to positively impact the type of service offered via referrals and self help information. This is a sound decision that deserves appropriate support from all levels of ICANN.

1.9 After the Ombudsman corresponded with you at the end of his work, what did you do?

As the Office makes determination about when cases are closed distinct from the perception and preferences of Users, it is essential to examine, what if anything Users do after that determination.

Almost 40 percent of the Respondents do nothing more, once the case is deemed closed by the Office. A worthwhile future performance measure for the Office would be to increase this number. As this question's score went higher, with no subsequent action by Users, it would be possible to say that User perception and Office definition was unifying, and that the Office was more completely satisfying Users' need for assistance.

However, the information of what Users DID do after the Office determined the case to be closed is also important. It suggests that the Office may well be creating significant value for ICANN and its community.

In response to question 1.6, 22 individuals indicated, had the Ombudsman not been available they would have made subsequent contact with a lawyer or initiated legal action. Responses to 1.9 show that only four Users did contact an attorney and three initiated legal action. This equates to 66 percent reduction in contacts and initiations due to Ombudsman involvement. Extrapolating this information, assuming that it is representative for ALL Office Users, it is possible that the Office may have provided services that led as many as 66 parties to not contact an attorney or initiating legal action. ($[(85/387)*22=100]$ cases with the possibility of lawyer contact or legal action initiation. A two-thirds reduction from 100 possible cases results in 66 "redirections.")

The results of question 1.9 point strongly to the likelihood that the Office of the Ombudsman creates significant value for ICANN and its community, especially registrars. With some additional effort and study, it would be possible to determine how much value is saved and/or created. This would offer the Office the ability to provide a cost benefit analysis to ICANN and the Community. This is a highly recommended course of action.

1.10 If you contacted the Ombudsman in a language other than English, were you satisfied with the translation service?

There were six answers to this question. Indeed not a great deal of data. That said, four of the six answers were negative. Some concern and attention should be given to examining the quality of the translation services employed. Future iterations of the Survey must repeat this question, provide space for narrative comments and potentially provided hypotheses as to why the translation services were negatively reviewed (Time consuming? Inaccurate? Other?). A performance goal of inverting the scores for this question to two-thirds positive would be advisable.

Scores for this question could also likely be effected – increased data, changed scores – if both the Survey and the invitations were offered in the various languages for which translation services were accessed in the previous period. That is, if the Ombudsman contracted for French, German, and Spanish services in the preceding period since the Survey was executed, invitations in each of those languages, and Surveys could be made available in French, German, and Spanish.

However, there is a significant question of practicability here. The costs for providing translated invitations and surveys, and then translating all answers could well be prohibitive. Currently, less than three percent of all cases involve languages other than English. The question becomes one of balance and intent. Is understanding the satisfaction level of this three percent important enough to the Office and ICANN to incur both the dollar cost and effort required. What is ICANN's goal for non-English speaking constituency? These tactical and strategic considerations must be addressed.

1.11 Can you tell us about your experience with the Ombudsman webpage?

1.12 What part of the webpage did you visit?

1.13 If you have read the Ombudsman's Annual Report, what language did you read it in?

1.14 If you read the Annual Report, did you learn about the role of the Ombudsman?

Questions 1.11 – 1.14 all refer to the Respondents' experience with the Office's website, and therefore will be jointly addressed.

As established in question 1.2 above, the Office's web presence is the key portal for Users to gain access to the Ombudsman. Therefore, the web presence is vital. Even so, these questions might well be moved from the Survey to the website itself.

First and foremost, those Users interested in accessing the Ombudsman, facing a pressing issue are most interested in assistance. Likely they are not interested in deep background information at this point. Again, based on results of the Survey the majority of people accessing the Ombudsman did NOT have cases in the Office's jurisdiction. This IN-SPITE of the fact that the Office's mandate and jurisdiction are well and carefully outlined on the website. Therefore, while the website is crucial for access it seems not to be an effective tool to ensure learning about the program. Secondarily, there are a group of people who access the website NOT for the purpose of making contact with the Ombudsman. Their input on the website is being lost at this time, as only Respondents to the Survey have the opportunity to express their opinions.

Specifically to Question 1.14 it should be noted that the omnibus score for all 34 who did respond was 2.58. This means that more than half of all Respondents to the Survey did not answer the question— suggesting they did not read the Report. Further, for those Respondents who did read it, they found the Annual Report just slightly above neutral in terms of satisfaction for learning about the Office. This suggests that an electronic version of the Annual Report is not the best way to ensure potential Users receive information about the Office.

1.15 Would you recommend the Office of the Ombudsman to someone else who had an ICANN related issue to resolve?

This question draws on the fundamental assumption of satisfaction with conflict management processes discussed earlier on page three— satisfaction with the process will likely lead to additional opportunities for the process to be used. Given the positive sentiment expressed in Question 1.5, by those with cases within the mandate of the Office, limited in number as they may be, it is somewhat surprising that only 59 percent of Respondents answered that they would recommend the Ombudsman. This does not compare favorably to responses to the same question posed by other ombuds programs. For example, the Vrije Universiteit Program in the Netherlands received an 80 percent score to this same question. The author repeated a 100 percent score for this question in all three iterations of the Ombuds Program User Questionnaire executed at the Agency for Healthcare Research and Quality between 1999 and 2003. While both of these programs were organizational instead of executive (and that may explain the difference) focusing on improving the likelihood that Users will recommend the Office to others is a very worthwhile performance metric for the ICANN Ombudsman to pursue.

1.16 Where do you live?

Responses to this question aligned very closely with tracking statistics kept by the Office. That is positive. This question though adds perhaps the least of all to the Survey's understanding of Users' experience with the Office, and therefore might well be deleted from future surveys without real loss. That said, the strategic question of serving the international community raised in above under Question 1.10 could predicate the question remain.

1.17 Is there anything else you would like to add to assist our evaluation of the Office of the Ombudsman?

This question affords the greatest opportunity for unanticipated learning of all in the Survey. Including it was a good decision, as evidenced by the 40 responses. These responses are impressive on two levels: First it is a significant proportion of the total set of Respondents that added additional information. This speaks to a strong motivation, both positive and negative, to express thoughts on the program. Second what was written includes several important insights into the Users'

experience of the Office. The responses, a mix of affirming and condemning comments, merit attention by anyone truly interested in ICANN, its constituency, and the Office of the Ombudsman. This is the single most meaningful set of responses in the Survey. Reading this set of responses is the most concise way to understand the current experience of the Office of the Ombudsman Users and is therefore strongly recommended.

Comment

While much of what is written here is critical and suggests adjustments and improvements, it must be borne in mind, this is a valuable activity, done for the first time in the setting of an executive ombuds program. There is much here that is positive and useful. As is the nature of commentary though, the focus is on that which can be improved.

Recommendations

The Client Survey and the Report by the ICANN Office of the Ombudsman appears sound and suggests overall the Office performs more than adequately, especially for those with issues of the nature for which the program was intended. In preparing this Commentary, several issues rose to the author's attention that could impact the Office and its performance, and its future measurement. These have been grouped into three areas – The Survey, The Office of the Ombudsman and ICANN. Careful consideration and appropriate action in regards to each issue will likely enhance the Office, and help improve understanding of its actual performance, including as regards satisfaction.

The Survey:

Repeat the Survey

Regardless of any shortcomings of this Survey, its value outweighs its costs. The learning afforded both The Office and ICANN is significant. If repeated, especially with minor adaptations described herein, the Survey will increase in value, as the longitudinal nature will suggest whether and in what ways The Office is continually improving. Further, repeating the Survey at regular intervals, preferably yearly, in addition to indicating trends in use and focus of The Office,

will reinforce with the user population that both The Office and ICANN are concerned with their opinions and perceptions.

Improve User-friendliness of and repeat survey invitations

The 22 percent response rate for the Survey invitations should be improved. Two elements would likely increase the response rate– user-friendliness and repetition of invitations/ reminders to participate.

The Office provides introductory information and annual reports in multiple languages. However, the invitation to take part in the Survey and the Survey itself were each offered only in English. While the overwhelming majority of the Office’s cases were conducted in English, interpretation services were available and utilized for casework. Therefore, the Survey and its invitation should also be available in any language for which interpretation services were utilized, and any other language in which the Ombudsman managed casework. The invitation could be made more user-friendly by describing the period the Survey would be open, the benefit to the organization and future Users, and an assurance of confidentiality. This information would likely stimulate increased participation.

Another effective way to increase the response rate is to repeat the invitation during the period the Survey is available for completion. Pages four – six of the Report indicate that the invitations were sent once and that all responses to the Survey were made within the first 10 days it was available. NO responses were made in the last seven days. Repeating the e-mail invitation at least once (e.g. mid-point of the open period or the day prior to closing) if not more, with a minor modification of thanking those who already responded, would almost certainly increase the response rate. The potential exists that an individual could answer the survey twice. A second invitation might increase the possibility of this. Obviously this would impact the Survey’s data. However, one or two repetitions would be nullified by an increase in the response rate of 10 percent or more. Finally, in the author’s experience executing similar surveys there has been no evidence of repeat responses due to repetition of invitations.

Edit or alter certain Survey questions for clarity

While overall reasonably structured and clear, the phrasing of certain questions weakened the Survey. Minor alterations would likely return more useful data.

Three particular questions to improve include:

1.2 Can you tell us about your understanding of the Office of the Ombudsman?

As Fowlie writes on page eight of the Report, “The purpose of this question was to attempt to understand the pre-disposed expectations that the community might have in contacting the Ombudsman. The results indicate a limited understanding of the Office of the Ombudsman.”

This question lacks needed specificity. The question needs to ask for the Respondents’ understanding either prior to or after contact with the Office. An alternative wording could be: “Prior to contacting the Office of the Ombudsman, what was your understanding of its purpose and procedures?”

Adding a question to learn if Users’ understanding changed through using the Office, as well as how, is recommended. This question would discern if and how the Office helps Users understand its functions and limitations. It could also reveal what, if any, other factors interfere with Respondent understanding.

1.5 – If you used the Office’s services, how well did the Ombudsman meet your expectations with regard to the following?

This question is the most important element of the entire Survey for determining satisfaction. Introducing the element of “expectation” was an error though, as it creates a non-calibrated sliding scale based on individually defined expectations for the Office. Someone starting with quite low expectations, having them met, may score this question affirmatively. Someone with higher hopes, who actually was more satisfied in truth, scored the question lower, because of the high expectations. This is well presented by a Respondent who provided an answer to question 17 by writing,

In question 5, I rated most items as “expectations met” but in fact I am very pleased with those items. My expectations were very high, and they were met. If you had used to more customary scale to indicate satisfaction level, I would have

rated those items at the maximum. The one item where my expectations were not met was timeliness. But this is not due to the ombudsman, it is due to the ICANN staff that was responsible for the problem in the first place. The ombudsman acted in a very timely manner.

Additionally and potentially more importantly, expectations can be misguided or inappropriate, i.e. exceeding the mandate / abilities of the Office. Reframe the question to satisfaction, accepting some difference in definition of will exist.

Anyone who did not avail themselves of “the Office’s services,” should not be answering this, or any other question. An alternative rendering could therefore be: “Based on your experience with the Ombudsman’s services, how satisfied were you in regards to each of the following?”

1.6 If you did not have the option to correspond with the Ombudsman about your issue, where would you have gone to get help?

The wording of this question leads Respondents AWAY from providing information that could have been more useful. The phrases “to correspond with” and “get help” change the focus to one of assistance rather than the process of issue management. The question would likely return more useful comparative information if written, “If the Ombudsman Office was not available, what would you have done?”

1.7 What was the result of your communication with the Ombudsman?

This question appears to ask for an outcome clarification. The results of this question, however, demonstrate Respondents had differing perceptions. (Respondent answers did not align with statistical tracking with the Office). The choices provided primarily consider process choices (referral, investigation, etc.) and did not adequately specify the difference among these choices. It is unlikely that a Respondent could both recall and understand the difference between “the issue was investigated” and “the Ombudsman took action and the issue was resolved.” That most Respondents chose the narrative option, and that many of these answers could be categorized among the options provided, reinforces that Respondents were confused about the options. Alternatively, Respondents may not have accurately recalled what actually happened. There are multiple

illustrations throughout the Report (mentioned earlier) that show User perception of process and outcome differed from the Office's recording of what occurred. The separation between response percentages and the Office's tracking statistics (Report pages 15 and 16) suggests this.

Use a separate question to query each process and outcome. Example: "As a result of working with the Office what occurred?" (List of potential process) and "What was the Outcome?" (Unresolved; Resolved; Withdrawn; Other.)

Ask about Fairness

"The purpose of the Office is to ensure that the members of the ICANN community have been treated fairly." This is the core mandate of the Office. However, the Survey never directly queries Users about this. A simple question, likely near the end, should be included. It might read, "Did your interaction with the Ombudsman impact your sense of being fairly treated by ICANN? Please explain how or why not." Querying User perception of this core mandate is highly advised for future iterations of this Survey.

The Office of the Ombudsman:

Improve Users' understanding of function at onset of cases

This Commentary endeavors through repetition, to make clear the consequential negative impact on the satisfaction scores created by those, with an issue outside of jurisdiction, accessing the Office. Many comments describe the frustration of these Users as they attempted to resolve an issue they BELIEVED the Office could address. It is possible, based on the screened results to Question Five, that as few as seven of the 86 Respondents actually had cases squarely within the mandate of the Office (Report pages 44 and 45). **Quite simply, the overwhelming majority of cases represented by Respondents to the Survey are not within the program's purview.** The process of educating these individuals as to the scope and mandate of the Office was not adequate. Efforts to expand both pre- and post-contact education as to the limits of the Office will improve future satisfaction survey scores, and more importantly, reduce frustration and dissatisfaction of key constituents with both the Office and ICANN.

Advance User benefit from referrals and follow-up in these situations

On pages 60 and 61, the Report presents how helpful Respondents found the referrals or self-help information they received from the Office. These scores are some of the lowest in the entire Survey. Sixty-three percent of all those responding to the question, found the information/referral they received of no help in resolving their issue.

Of course, the Office has no “authority” over those to whom it refers and can therefore not guarantee any type of response. However, it does appear that contact from the Office makes a difference with these outside institutions. A few responses described how an email from the Office to a registrar or other entity made a dramatic positive difference.

Additionally, it is unclear whether the Office executes any kind of follow-up with either the User or the party to whom they were referred. Both pre-issue contact with those likely to be referred TO, and post referral follow-up to both parties would likely improve both the satisfaction scores AND the actual benefit Users obtain from these referrals. On page 18, the Report discusses this issue. Rather than addressing it from a “service” prospective, it focuses on how to adjust the design of future surveys, to determine if the referral was correct but unhelpful or simply incorrect. This would indeed be an advancement to the Survey. The Office and Users though, would both likely benefit more from a process/protocol adjustment including post referral follow-up, rather than survey alterations.

ICANN:

Address the misperception of managing broader issues

While it is well beyond the scope and intent of this Commentary, much of what Users of the Office state about ICANN, and indeed the internet could, and perhaps should, inform ICANN leadership in future decisions and actions. Thus, it is strongly recommended that ICANN leaders examine the results, especially as regards beliefs expressed in narrative responses to Questions Four and 17.

Many Users seem to believe the Office should manage issues such as: domain squatting, domain registrations/eliminations and other similar issues, as described in the narratives for Questions Four and 17. By extrapolation, this means these Respondents believe ICANN is positioned to respond to these problems. Both the Office and ICANN must better address this misperception, or the negative reaction to both, for something neither is intended nor able to address, will likely grow.

Communicate with all, especially Survey Respondents, on findings

Secondly, ICANN must, in conjunction with the Office, communicate the findings of this Client Satisfaction Survey and this Commentary. This needs to be executed with the universe of potential Users and past Users, and especially the specialized subset of Survey Respondents. There are as many as five requests in the Survey responses for someone other than the Ombuds to review the responses and even communicate with those providing the response. Two examples are:

Thank you for this opportunity to provide feedback on the office of ombudsman. I hope someone other than the ombudsman reads it. Simply put, I was very disappointed. ... (Question 17/ Response Other/ Answer 11.)

I do not know who issued this survey, or to whom it will be reported. If someone outside the Office of the Ombudsman is conducting an evaluation of the Office of the Ombudsman, I would like to be contacted by them to report my experience with the Ombudsman to them. (Question 17/ Response Other/ Answer 37.)

These individuals expressed a desire to raise their voice regarding ICANN and the Office. Properly acknowledging these requests would in fact show that the Office was rigorously and honestly assessed and that ICANN listens and is responsive.

Direct contact with particular Respondents is likely impossible because of the anonymization process. But, it would be injudicious for ICANN to miss the poignancy of these requests. No recommendation in this Commentary has more import to the future viability of The Office and its capacity to benefit ICANN.

Failure to show some consideration and recognition of these requests will likely lead to a group of former Users who believe The Office and ICANN are predisposed to not listen or be responsive. This is in fact not the case. This review

of the Report in fact ensured that someone other than the Ombuds saw issues. ICANN and the Office have both demonstrated considerable openness and courage throughout the assessment process. Each deserves credit. Not responding to these requests with some form of meaningful response will, to some extent, negate the quality of the action and integrity that ICANN and the Office have displayed to this commentator to date.

In addition to the benefit likely gained by reporting back findings of the Survey to those previous Users, it is simply a best practice to provide this information to all. For too long, ombuds offices, of all types have failed to report on their performance in any meaningful way. ICANN's Office of the Ombudsman has conducted more assessments and reported on these assessments to a degree only a few other world class programs can claim. The Office has posted to its website all of its assessment activities to date. Even so, ICANN MUST make an additional and special effort to actively respond to the findings of the Survey, the Report, and this Commentary.

A possible response could include:

- An additional comment by ICANN leadership posted to the website, expressing support for the Office, and making clear that board members or other appropriate parties, would be open to receiving communications from those who use the Office or respond to the Survey.

Other responses are of course also possible. The only unacceptable response though would be inaction on this issue by ICANN or the Office.

Conclusion

The ICANN Office of the Ombudsman has developed and initiated one of the most complete, deliberate, and meaningful assessment processes known. This latest step in that assessment process, a Client Satisfaction Survey, now allows the Office to say that it largely satisfies Users, who responded to the Survey. This was the case, even when the majority of Respondents brought cases beyond jurisdiction to the Office.

Findings of the Survey also allow the Office to state that Users with issues within its jurisdiction were in fact highly satisfied. Responses also suggest that the Office is particularly called on by parties who are unclear as to their options. Therefore the Office serves a navigational function. While this is a net positive, responses suggest that a major forward step for the Office is to improve its capacity to make references and to follow-on with those made to assure satisfaction and benefit.

Survey responses also suggest the Office creates value for the Users, the regulated community, and ICANN by assisting parties resolve issues without resulting to court filings and use of attorneys. Further examination of this issue, an intended part of the continuous assessment process, is required to solidify this claim.

In summation, the Client Satisfaction Survey engaged in a more than reasonable methodology that lead to a legitimate sounding of satisfaction with and User experience of, the Office of the Ombudsman. The Report adequately captures the sense of the Survey responses and reasonably interprets the responses. Certain Survey and Office operational adjustments likely to result in program enhancement, if enacted, were discovered through the Report's analysis of the Survey, with additional such findings discovered through this Commentary.

ICANN, the community it regulates, and the ombuds field in its widest definition do benefit from the Office and its assessment activities. There is every reason to believe this will continue. Further, it appears likely the benefits to each of these groups will grow as the ICANN Office of the Ombudsman continues.

Author

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Guidance

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