

Office of the Ombudsman

Internet Corporation for Assigned Names and Numbers

Results Based Management and Accountability Framework (RMAF)

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Ombudsman

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Introduction

This report presents the results based management and accountability framework (RMAF) for the Office of the Ombudsman (Ombudsman) at the Internet Corporation for Assigned Names and Numbers (ICANN). The framework is organized into four main sections:

- A profile of the office
- A logic model
- An evaluation strategy
- A reporting strategy.

Office of the Ombudsman Profile

- Origin and rationale

The first ICANN Ombudsman was appointed in November 2004, following amendments to the ICANN bylaws which established the Office. The Ombudsman was established as mechanism to enable members of the ICANN community to bring issues forward in a non-adversarial manner and to seek resolution to problems. The appointment of the Ombudsman was seen as one of the last key factors in ICANN reform.

- Mandate and Objective

The Office of the Ombudsman and the work that the ICANN Ombudsman does are established by [Article V of the ICANN Bylaws](#). (Appendix 1)

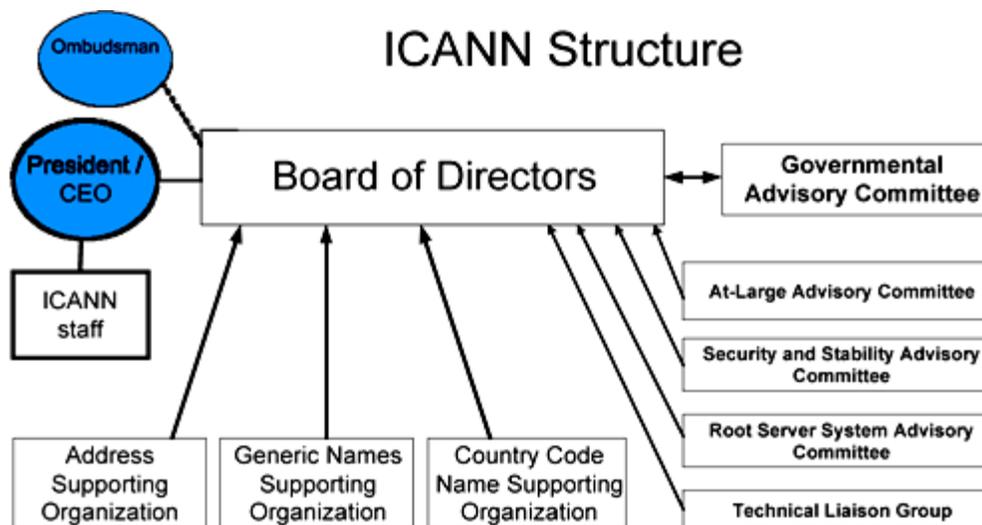
The ICANN Ombudsman is independent, impartial, and neutral. The Ombudsman's function is to act as an Alternative Dispute Resolution (ADR) office for the ICANN community who may wish to lodge a complaint about a staff or board decision, action or inaction. The purpose of the office is to ensure that the members of the ICANN community have been treated fairly. The Ombudsman will act as an impartial officer and will attempt to resolve complaints about unfair treatment by ICANN using ADR techniques.

The objective of the Office is to ensure that the members of the ICANN community receive fair and equitable treatment and administrative fairness throughout ICANN and its various constituent bodies.

- Governance structure

The Ombudsman is a sole practitioner, independent from both ICANN board and staff structures. The Ombudsman requires this independence in order to conduct his function with the required neutrality and impartiality.

The Ombudsman is hired by the Board of Directors, and can only be removed from office by a vote of more than 75% of the board.



The Ombudsman is a professional in the Ombudsman community and strives for peer recognition in international ombudsman institutions, such as The Ombudsman Association (TOA) and the United States Ombudsman Association (USOA). The Ombudsman will adhere to the standards of practice established by the TOA.

- Clients

Through the Office of the Ombudsman, ICANN has the potential to reach every domain holder across the globe; every registrar; every registry; members of the ICANN community such as GAC, ALAC, etc.; governments; telecommunications companies; and Internet consumers generally.

- Delivery Approach

The Office of the Ombudsman, as a single practitioner office, is linear its delivery. It relies very much on the members of the ICANN community contacting the Ombudsman with issues or complaints, which are then either referred onward or investigated.

Immediate outcome goals surround this functionality. A website has been developed, as has an interactive complaint form, and appropriate complaint handling software is under construction.

Intermediate outcomes will include an outreach program aimed at registries, registrars, and other appropriate venues. The Office of the Ombudsman should be seen as a resource for speaking about Ombuds issues in the cyber community.

- Final Outcomes and Planned Results

Ultimately, ICANN is working towards a stable, secure, and universal internet. In working towards that goal, the Office of the Ombudsman will assist ICANN by:

- Ensuring that members of the community receive fair and equitable treatment;
- Helping to raise service and administrative standards;
- Improving communication links between ICANN and the community; and,
- Issuing reports, and maintaining a website that informs consumers, and the ICANN community about issues of interest.

Office of the Ombudsman Logic Model

The objective of a logic model is to describe a program in terms of its planned activities, outputs, and desired outcomes. It will demonstrate the causal relationship between the Office of the Ombudsman's activities and the desired final ICANN outcomes. As the Office activities change or evolve, so should the logic model change to reflect the activities, outputs and outcomes.

The key **function** of the Office of the Ombudsman is to act as an independent reviewer of facts to ensure that members of the ICANN community have been fairly treated by the ICANN staff, board and supporting organizations.

The Office of the Ombudsman undertakes a number of **activities** in support of that key function:

- The Ombudsman receives complaints and investigates them or refers them on to another body for action;
- The Ombudsman participates as an active member of the international Ombudsman community, and follows standards of practice established in the field;
- The Ombudsman conducts Outreach activities in order to raise awareness of the role of Office of the Ombudsman, and to conduct proactive Ombudsmanship; and
- The Ombudsman uses appropriate communications tools to reach members of the ICANN community.

The Office of the Ombudsman will have several key **outputs**. The Ombudsman's principal communication vehicle with the ICANN community is the Ombudsman website (<http://www.icann.org/ombudsman>). This website will be interactive, and allow members of the community to send complaints directly to the Ombudsman.

The website will also be the repository of key documents, including two key foundation documents for this office, the Ombudsman Framework, and the Results Based Management and Accountability Framework. The publication of these on the web provides both transparency and accountability.

A third key output will be the Case Management System which will be a critical component in a single practitioner office.

A fourth key output will be the Ombudsman's Annual Report.

There are several **immediate outcomes** from the Ombudsman's activities. Members of the ICANN community now have an advocate for fairness that has been long awaited. The community now has an independent, neutral, and impartial source to approach to investigate matters of fairness with ICANN. The Office of the Ombudsman can now act as a fair and authoritative voice to assist consumers, and define the limits of where ICANN can and cannot take action.

As an **intermediate outcome**, members of the community, and ICANN itself, will become more accustomed to dealing with the Office of the Ombudsman as an arbiter of fairness; the standards and expectations of fairness, and therefore trust, between ICANN and the community it serves should rise.

As a **final outcome**, the Office of the Ombudsman adds to the overall objectives of ICANN, of a stable, secure and universal internet, by ensuring that stakeholders have reasonable access to an alternative dispute resolution system.

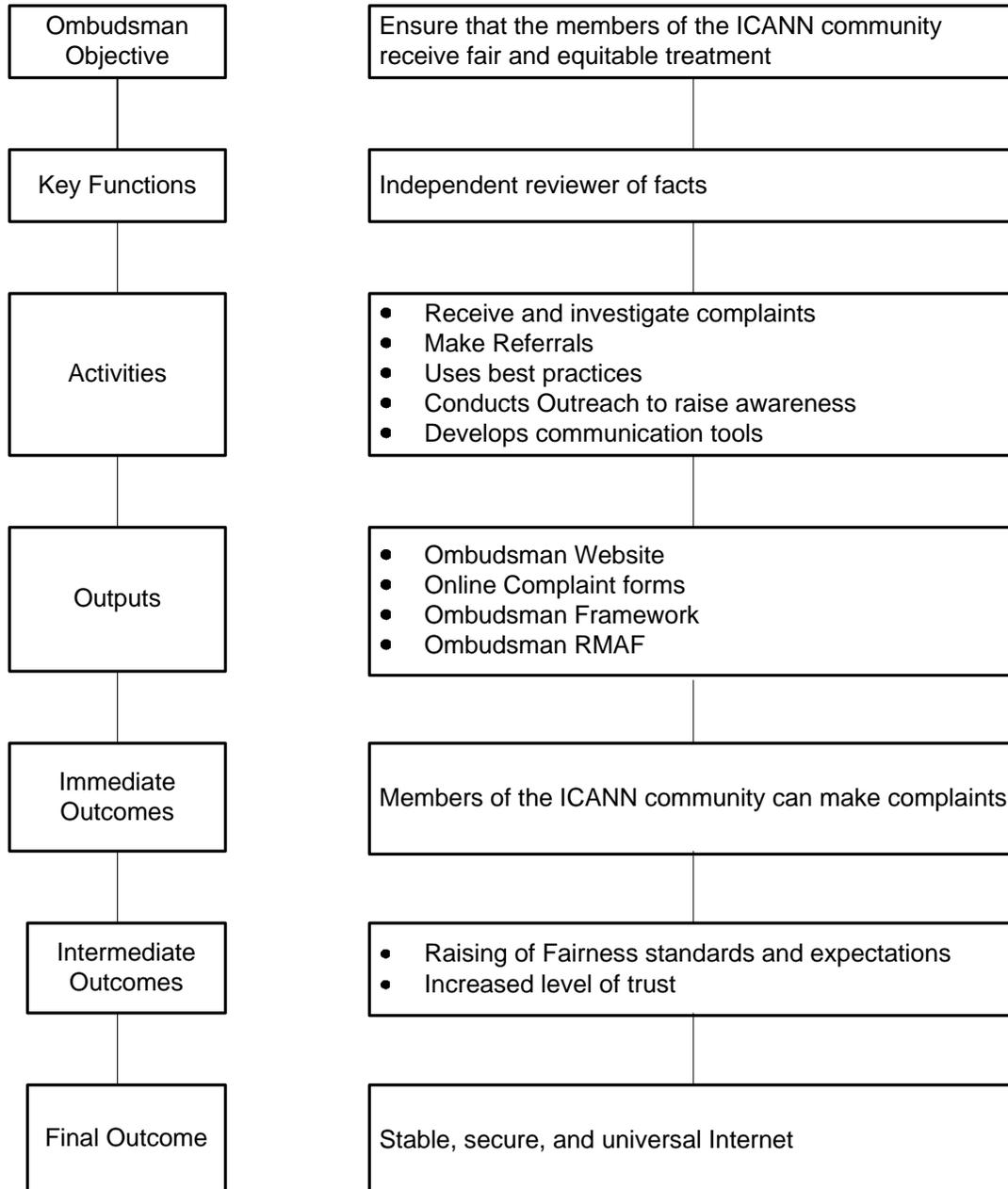
There maybe **unintended impacts** as a result of the Office of the Ombudsman coming into existence. Complaints which come to the Office of the Ombudsman and which are resolved, may, in fact, represent the avoidance of costly and time consuming litigation processes. At worst, cases which go through the Ombudsman process, that are not resolved, and are litigated, will have had the benefit of the review of an independent third party.

The publication of the Office of the Ombudsman Annual Report, and other publications may provide guidance and information to registries and registrars about fairness issues which they can implement, thus raising standards at those levels.



Office of the Ombudsman

Logic Model



Evaluation Strategy

An evaluation strategy identifies a series of questions that can be asked in order to determine if the Office of the Ombudsman has been successful, the types of indicators used to measure success, and data requirements to support the indicators.

The evaluation strategy supports the logic model, and like the latter, is a living document; if the logic model changes, so must the evaluation strategy.

In this case the evaluation strategy is impacted by four factors:

- There are requirements for the establishment of the Office of the Ombudsman, reporting, budgeting, etc, established in Bylaw V (see Appendix 1). Therefore, such questions as to the need for an annual report, or relevance of the office, are restricted by these bylaw requirements.
- The Office of the Ombudsman is, at the present time, a sole practitioner office. The demands upon the Office of the Ombudsman are therefore, in reality, demands on the Ombudsman, and time management and prioritization are key factors. If the volume of work becomes overwhelming the evaluation will quickly indicate problems.
- The Office of the Ombudsman operates under the principle of confidentiality. Out-reporting of issues will be only to required parties or in the generic form.
- The Office of the Ombudsman is an executive Ombudsman, and although independent, is reliant upon ICANN staff for administrative and technical assistance and support. If they are backlogged, this impacts the Ombudsman.

This evaluation strategy includes 7 questions with 15 performance indicators in four topic areas: relevance; management; program delivery; and cost effectiveness. The 15 indicators include both qualitative and quantitative data that can be collected by a number of sources:

- Office of the Ombudsman case Management system;
- Consumer surveys;
- Research;
- Interviews with staff, board members, ICANN community members;
- Financial records; and
- Media records.

The formative or mid term evaluation should take place in fiscal year 2008-09 and the summative or final evaluation two years later in fiscal year 2010-2011.

Because much of the data for evaluation purposes, with the exception of consumer surveys, is already, or will be collected by the Office of the Ombudsman or ICANN, costs associated with an evaluation will be limited. Much of the evaluation can be done in house. Additional costs maybe anticipated with consumer surveys and outside interviews, but it is expected that these activities would take place in conjunction with a wider ICANN evaluation.

Evaluation Questions	Performance Indicators	Data Sources	Who does?	Ongoing	Formative	Summative
Relevance						
Is there an ongoing need for the Office of the Ombudsman?	# of people using Ombudsman services (call centre, website, complaint form etc)	Trend analysis	Ombudsman	x		
	# and type of complaints					
	# and type of resolutions					
	# and type of media mentions that focus on the Office of the Ombudsman	ICANN media files	Communications	x		
	% of complainants/community who agree there is a need for the Ombudsman	Consumer surveys	ICANN			x
% of complainants/community who know of an alternative to resolving a complaint if Ombudsman did not exist	Consumer surveys	ICANN			x	
Management						
Is the Office of the Ombudsman resources sufficient to carry out its mandate?	Activities and outputs completed as planned	Analysis of planned vs. actual activities and outputs	Ombudsman		x	
	Perception that Ombuds has sufficient resources	Interview Board, staff, Ombuds	Ombudsman, ICANN		x	
	Inventory and backlog of Ombuds files	Trend analysis using Case management system	Ombudsman	x	x	x

Program Delivery						
To what extent has the Ombudsman established effective working relationships?	With Staff, Board, Supporting Agencies, Registries, Registrars, and the ICANN community in general	Interviews with stakeholders	Ombudsman, ICANN		x	x
Is ICANN staff and Board dealing with identified issues in a timely manner?	# of cases requiring staff or board intervention	Review Case Management system	Ombudsman		x	x
Has there been a change in behaviour on the part of ICANN or a complainant to avoid litigation?	# of cases resolved by Ombudsman which could have gone to litigation	Review Case Management system	Ombudsman		x	x
Cost effectiveness						
Has the Ombudsman been cost effective in delivering the program?	Savings as a result of bulk airfare purchases, prudent purchasing of equipment, etc	Review of financial data	Chief Financial Officer		X	X
	Actual or potential improvements, efficiencies, or cost savings in ICANN program delivery or administration		Ombudsman	X	x	x
Are there cost effective alternatives?	Are there other models of Executive Ombudsman which ICANN could employ?	Research	Ombudsman	x		

Reporting Strategy

The Ombudsman is required to make an annual report of his activities in accordance with Bylaw V. Ongoing evaluation indicators should be reported to the Board of Directors on an annual basis. Formative and summative evaluations should be reported on in the time frame noted above.

The Office of the Ombudsman will always maintain the responsibility for the evaluations and reporting.

Appendix 1

ARTICLE V: OMBUDSMAN

Section 1. OFFICE OF OMBUDSMAN

1. There shall be an Office of Ombudsman, to be managed by an Ombudsman and to include such staff support as the Board determines is appropriate and feasible. The Ombudsman shall be a full-time position, with salary and benefits appropriate to the function, as determined by the Board.
2. The Ombudsman shall be appointed by the Board for an initial term of two years, subject to renewal by the Board.
3. The Ombudsman shall be subject to dismissal by the Board only upon a three-fourths (3/4) vote of the entire Board.
4. The annual budget for the Office of Ombudsman shall be established by the Board as part of the annual ICANN budget process. The Ombudsman shall submit a proposed budget to the President, and the President shall include that budget submission in its entirety and without change in the general ICANN budget recommended by the ICANN President to the Board. Nothing in this Article shall prevent the President from offering separate views on the substance, size, or other features of the Ombudsman's proposed budget to the Board.

Section 2. CHARTER

The charter of the Ombudsman shall be to act as a neutral dispute resolution practitioner for those matters for which the provisions of the Reconsideration Policy set forth in [Section 2 of Article IV](#) or the Independent Review Policy set forth in [Section 3 of Article IV](#) have not been invoked. The principal function of the Ombudsman shall be to provide an independent internal evaluation of complaints by members of the ICANN community who believe that the ICANN staff, Board or an ICANN constituent body has treated them unfairly. The Ombudsman shall serve as an objective advocate for fairness, and shall seek to evaluate and where possible resolve complaints about unfair or inappropriate treatment by ICANN staff, the Board, or ICANN constituent bodies, clarifying the issues and using conflict resolution tools such as negotiation, facilitation, and "shuttle diplomacy" to achieve these results.

Section 3. OPERATIONS

The Office of Ombudsman shall:

1. facilitate the fair, impartial, and timely resolution of problems and complaints that affected members of the ICANN community (excluding employees and

vendors/suppliers of ICANN) may have with specific actions or failures to act by the Board or ICANN staff which have not otherwise become the subject of either the Reconsideration or Independent Review Policies;

2. exercise discretion to accept or decline to act on a complaint or question, including by the development of procedures to dispose of complaints that are insufficiently concrete, substantive, or related to ICANN's interactions with the community so as to be inappropriate subject matters for the Ombudsman to act on. In addition, and without limiting the foregoing, the Ombudsman shall have no authority to act in any way with respect to internal administrative matters, personnel matters, issues relating to membership on the Board, or issues related to vendor/supplier relations;
3. have the right to have access to (but not to publish if otherwise confidential) all necessary information and records from ICANN staff and constituent bodies to enable an informed evaluation of the complaint and to assist in dispute resolution where feasible (subject only to such confidentiality obligations as are imposed by the complainant or any generally applicable confidentiality policies adopted by ICANN);
4. heighten awareness of the Ombudsman program and functions through routine interaction with the ICANN community and online availability;
5. maintain neutrality and independence, and have no bias or personal stake in an outcome; and
6. comply with all ICANN conflicts-of-interest and confidentiality policies.

Section 4. INTERACTION WITH ICANN AND OUTSIDE ENTITIES

1. No ICANN employee, Board member, or other participant in Supporting Organizations or Advisory Committees shall prevent or impede the Ombudsman's contact with the ICANN community (including employees of ICANN). ICANN employees and Board members shall direct members of the ICANN community who voice problems, concerns, or complaints about ICANN to the Ombudsman, who shall advise complainants about the various options available for review of such problems, concerns, or complaints.
2. ICANN staff and other ICANN participants shall observe and respect determinations made by the Office of Ombudsman concerning confidentiality of any complaints received by that Office.
3. Contact with the Ombudsman shall not constitute notice to ICANN of any particular action or cause of action.

4. The Ombudsman shall be specifically authorized to make such reports to the Board as he or she deems appropriate with respect to any particular matter and its resolution or the inability to resolve it. Absent a determination by the Ombudsman, in his or her sole discretion, that it would be inappropriate, such reports shall be posted on the Website.

5. The Ombudsman shall not take any actions not authorized in these Bylaws, and in particular shall not institute, join, or support in any way any legal actions challenging ICANN structure, procedures, processes, or any conduct by the ICANN Board, staff, or constituent bodies.

Section 5. ANNUAL REPORT

The Office of Ombudsman shall publish on an annual basis a consolidated analysis of the year's complaints and resolutions, appropriately dealing with confidentiality obligations and concerns. Such annual report should include a description of any trends or common elements of complaints received during the period in question, as well as recommendations for steps that could be taken to minimize future complaints. The annual report shall be posted on the Website.