



OFFICE OF THE ICANN
OMBUDSMAN
Creating Dialogue. Affirming Fairness.

Annual Report Fiscal Year 2013

Presented by:

Chris LaHatte
ICANN
Ombudsman

Introduction

I am pleased to present my second annual report as the ICANN Ombudsman for 1st July 2012 through to 30th June 2013.

The purpose of this report is described in the Bylaws:

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.

What The Ombudsman Does

As the ICANN Ombudsman, I am an objective advocate for fairness within the ICANN community. The office is a symbol to the community of ICANN's commitment to good governance, by the advocacy for fairness. A multistakeholder organization like ICANN must accommodate many diverse ideas, ambitions, cultural aspirations and values.

Not everyone knows what an ombudsman does. Some see me as a sort of guardian or consumer advocate. It's OK that people don't know what I do, because part of my role is outreach.

The ICANN community is broader than staff and the dedicated volunteers who attend ICANN meetings. Virtually anyone who interacts with ICANN is a member of the ICANN community. In general, I have taken a liberal approach when people come to me with issues, rather than exclude those on a strict interpretation of jurisdiction.

My Second Year as Ombudsman

This year, I began using my office in the Lambton Quay in Wellington, New Zealand instead of working from my home office. My office is within a shared space used by a group of lawyers and some dentists, in the same building as the Arbitrators and Mediators Institute, and offers shared reception and technology which benefit me greatly.

I also sought to modernize the case management system in place when I joined. After a lengthy review and analysis, I selected a case management system called I-Sight. I-Sight benefits are increased efficiency by streamlining investigations, a reduction in administrative tasks, and powerful reporting tools. The tool is being assessed for security before adoption however.

Complaints and Resolutions Overview

The number of complaints (see Chart 1) increased 180 percent from 132 to 372 this year. Virtually all complaints have a reply within 24 to 48 hours.

The majority of complaints are outside of the Ombudsman's jurisdiction, as you'll see in Chart 2, showing complaints by type. Of 372 complaints, only 54 were within the jurisdiction of the office as it is structured now. This is still a significant increase in the workload.

The high number of non-jurisdictional complaints raises several issues. First, should the Bylaw and Framework be revised to widen the jurisdiction in order to offer broader assistance? Second, is there an organizational need for general complaint handling within the ICANN community? In FY 2013, I took the initiative to review the Ombudsman Bylaw and Framework, and prepared a draft paper offering analysis of these two questions. During this period, I had an initial consultation with the ICANN Legal Department on the issues. This will be an ongoing, long-term effort.

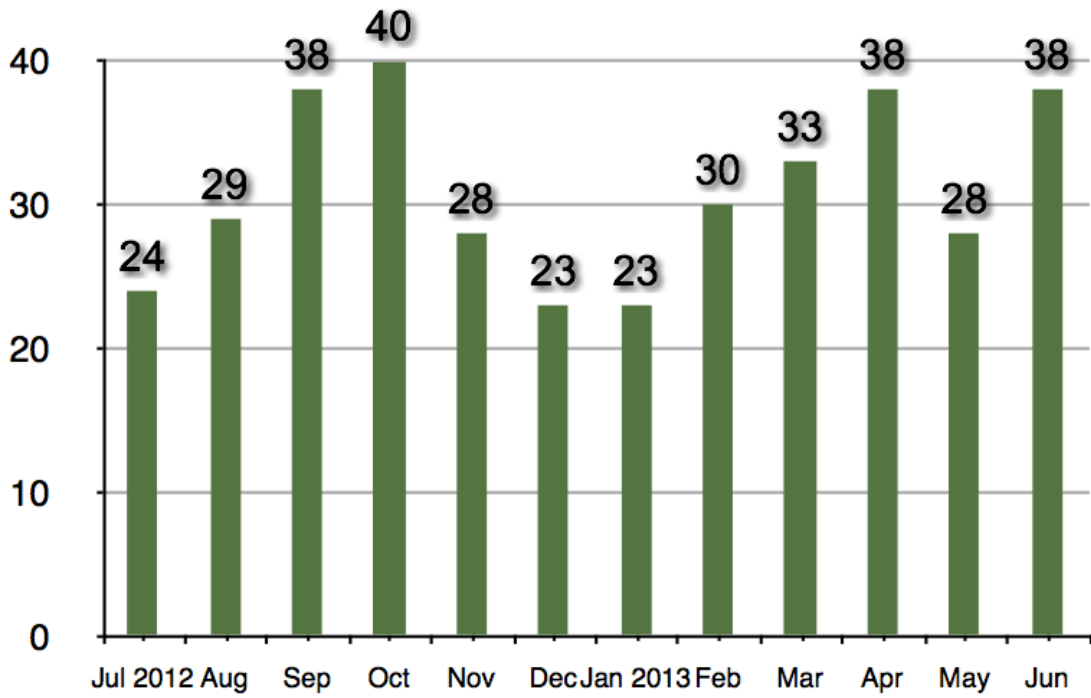


Chart 1-Total complaints, FY 2013

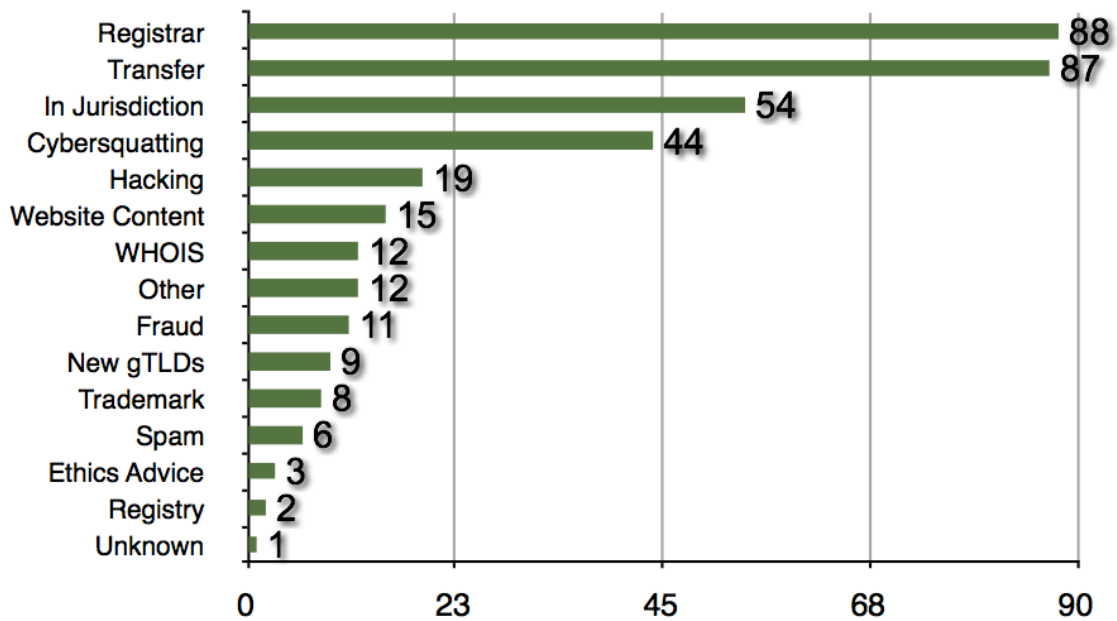


Chart 2-Types of complaints received in FY 2013. Only 54 were within jurisdiction of the Office of the Ombudsman

Jurisdictional Complaints

Complaints about aspects of the New gTLD Program continue to dominate the jurisdictional complaints I receive. Two of these complaints led to my recommendations to the Board about instances where decisions made by the Dispute Resolution Providers have been unfair, in my opinion. There have also been a number of other complaints about the way objections and responses were handled, and a decision made in relation to the relaxation of some financial conditions.

A key learning from the aggregate complaints about the New gTLD Program is that ICANN should be very clear on timetables and the impact of non-compliance.

Complaints on issues other than the New gTLD Program included a disagreement over an election process among different constituencies, a process breakdown within the Trademark Clearinghouse, delay problems, conflicts and membership issues within Supporting Organizations and Advisory Committees, information posted on the ICANN website, the need for polite and respectful online communications, and complaints about former CEO Rod Beckstrom's email sent after completion of his term.

Non-jurisdictional Complaints

The majority of non-jurisdictional complaints I receive are about registrars and transfer of domain names. Specifically, the complaints are often about failure to supply EPP codes and domain names held in the name of third parties. There are also regular complaints about cybersquatting. Some can be referred to the Uniform Dispute Resolution Procedure, but others need an explanation of how this market can be robust and commercial at times. In my opinion, we need more efforts to raise community awareness of the importance of keeping control of your own domain name, rather than leaving this with the company that designed the website or in the personal name of an employee. I have on a number of occasions intervened to facilitate and mediate settlements in some of these disputes.

There continue to be regular complaints about the content of websites, illustrating a lack of understanding about what ICANN does. I try to handle these with some sensitivity, but of course, there is little that I can do. I generally try to identify the correct place to make a complaint and pass this information onto the individual.

Outreach

ICANN 45 – Toronto, Canada and ICANN 46 – Beijing, China

Attendance at ICANN meetings is one of the high points of my job. Dealing with people online is adequate, but it is difficult to form good working relationships sometimes without meeting in person.

I attended two meetings in this year-the timing meant Durban was outside of the ICANN year.

In addition to providing open office hours in a private setting for any interested parties, I presented the Ombudsman 101 training course for newcomers, and took the opportunity to meet many of them. I also tried to attend as many of the Supporting Organization, Advisory Committee and constituency meetings as I could, to reinforce the knowledge of my availability should they have any issues.

Trainings and non-ICANN Meetings

- Arranged and conducted Ombudsman orientations for new ICANN staff in Los Angeles and Brussels in Q1; conducted further staff orientations in Los Angeles in Q3 and Q4. All new staff are required to attend Ombudsman orientation, enabling me to develop personal relationships with new employees.
- Met with members of the Australian, New Zealand and Pacific Islands' Internet community through New Zealand Net Hui in Q1.
- Attended the Arbitrators and Mediators Conference in New Zealand in Q1.
- Participated in a training offered by the International Ombudsman Institute in Vienna, in partnership with the Queen Margaret University of Scotland, in Q1.
- Attended the 10th World Conference of the International Ombudsman Institute, a gathering of around 200 distinguished ombudsman from around the world, in Wellington, New Zealand, in Q2.
- Attended the "Sharpening Your Teeth" training course run by Ontario Ombudsman Andre Marin in New Zealand in Q2, where topics included social media and ways to investigate and determine the merits of complaints.
- One-on-one meeting with Barbara Finlay of the Office of the Ombudsman for Ontario in Q2.
- Speaking event at local Rotary Club in Wellington in Q3.
- Arbitrators and Mediators Institute in Q3.
- Ombudsman and mentor training event at Pepperdine University in Q4.

Website, Social Media and Blogging

I have now rewritten most of the Ombudsman website, and made it easier to find me and submit complaints. I updated the web pages to better articulate my role and used plain English to enable better readability. This is an ongoing project, of course.

During this fiscal year, I wrote 28 blog posts on topics varying from mediating using Skype to the United Nations Report on Broadband to my submissions to ICANN's Accountability & Transparency Review Team 2. I maintained an active Twitter account with more than 250 followers, and launched a Facebook page.

For more information about the ICANN Office of the Ombudsman, please visit <https://www.icann.org/resources/pages/ombudsman-2012-02-25-en>.