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Office of the Ombudsman

Remarks at Paris Public Forum

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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 the 2007 2008 fiscal year, my Office has received over 120 complaints and contacts from 30 countries. Presently only two of these complaints had not been resolved or referred to another, more appropriate body or agency for resolution. The two matters are still under review or monitoring by my Office.

Outreach and peer Ombudsman activities remain an important role for my Office and since we last met in Delhi, I have accepted Dr. Hong Xue's invitation to speak with graduate students studying technology law at the Hong Kong University Faculty of Law. This was accomplished on the homeward bound journey from the Delhi meeting.

I have addressed the Annual Conference of the International Ombudsman Association (IOA), and with Mr. John Zinsser, co-presented on the topic of Ombudsman evaluation. I am a member of the IOA's effectiveness committee.

The International Ombudsman Institute has published two papers I have written; the first in its annual

yearbook, and the second as an occasional paper.

The American Barr Association has recently published an article entitled “Internal Alternative Dispute Resolution at ICANN” about my Office.

Mr. Chairman, I have previously reported that I am chairing the next International Forum on Online Dispute Resolution in June, at Victoria, Canada (www.odrforum2008.org). It is with great sadness that I report that one of our keynote speakers, President Jose Ramos Horta of East Timor was the victim of an assassination attempt. The President’s injuries prevented him from traveling to Canada, and he did provide a video address to the 150 delegates from over 30 countries. Our other keynote speaker, Dr. Vinton Cerf presented a talk on his view of the future

of the internet. Both of these speakers were presented with honorary doctoral degrees.

It is important for me to note the assistance of many people and organizations in putting on this important conference including: Royal Roads University, the Governments of Canada, British Columbia, and Timor Leste; sponsors such as Afilias, CIRA, the National Arbitration Forum, the Hong Kong International Arbitration Centre; and learners from both Royal Roads and Pepperdine universities. I am pleased to report that the Forum was a success.

Mr. Chairman, as is usual in my public forum comments, I would like to spend a couple of minutes talking about the principles of Ombudsmanship.

Today, I want to discuss the need for an accountability loop between the role and function of the Ombudsman and the or

It is said that an Ombudsman is:

... an independent, objective investigator of people's complaints against government agencies and other organisations, both public and private sectors. After a fair, thorough review, the ombudsman decides if the complaint is justified and makes recommendations to the organisation in order to resolve the problem.¹

United States Supreme Court Justice Louis Brandeis has said "Publicity is justly commended as a remedy

¹ Forum of Canadian Ombudsman, 2006, **What is an Ombudsman?**
http://www.ombudsmanforum.ca/whatis_e.asp (accessed January 28, 2007)

for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.”

In these two comments, one sees the basis of a relationship between the ombudsman, the organization or the state. The ombudsman acts as the electric light through the recommendation reporting process. He shines light on the dark areas of systemic or individual unfairness. Once the light has illuminated issues which require redress, it becomes the responsibility of the organization to act upon the ombudsman’s recommendations, or to reject them. Most ombudsman statutes provide timelines by which the state or organization must respond to the ombudsman and provide information as to how the

recommendations have been implemented to redress unfairness, or to provide reasons why the recommendations may not be practical.

This process of recommendation making, and reply from the entity which has been the subject of an ombudsman enquiry ensures to the community served by the entity and its ombudsman that issues of concern are fairly dealt with.

In February 2007, I made a set of 12 recommendations to the ICANN Board of Directors (<http://www.icann.org/ombudsman/documents/report-15feb07.pdf>), outlining what I believed to be were important steps for systemic improvements, following a detailed enquiry regarding voting practices with the

ALAC. I am disappointed that, as of June 3, 2008, my Office has not been informed as to what actions the Board or ALAC has taken to implement these recommendations. I am aware that one of recommendations has been implemented, as the applicant I viewed as being unfairly treated has been given status as an At Large Structure. Mr. Chairman, I do hope that ICANN will respond to my recommendations in due course.

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