



OFFICE OF THE ICANN
OMBUDSMAN
Creating Dialogue. Affirming Fairness.

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

4676 Admiralty Way, Suite 330, Marina Del Rey, California 90292
Tel + 64 21 0705236 Fax +1 310 957 2346
E-Mail chris.lahatte@icann.org

Office of the Ombudsman
Internet Corporation for Assigned Names and Numbers

Report to the Board of Directors

Background

ICANN Bylaw V, Article 2 states:

“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 a negotiation, facilitation, and “shuttle diplomacy” to achieve these results.”

The Ombudsman Framework contains the following provisions:

“Where, in the conduct of an investigation of a complaint, the Ombudsman forms an opinion that there has been a serious breach of administrative fairness, or maladministration, the Ombudsman shall notify the Board of Directors of the circumstances (see key principles regarding administrative fairness in the "Code of Administrative Justice 2003" Ombudsman British Columbia).”

“Should the Ombudsman begin an “own initiative” complaint, the Ombudsman will advise either the Chairman, Chief Executive Officer, or Corporate Secretary of the existence of the complaint.”

“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.”

Transition

This report covers the transition in office from the completion of Dr Frank Fowlie’s term in January 2011. The search for the new ICANN Ombudsman commenced in November on a worldwide basis, and concluded in July this year with the appointment of Chris LaHatte of New Zealand as the new Ombudsman.

During this interim period the number of complaints dropped significantly. It is difficult to know precisely why this occurred, but at least part of the reason was that Dr Fowlie indicated he was not seeking reappointment, and it may be that the constituency wanted to wait for the new appointment. By way of contrast, although it is in the subsequent year of reporting, the number of complaints has surged considerably.

Dr Fowlie set up a proposal for a programme for training the new appointee, and subsequently assisted in implementing this by telephone, email and an intense 2 week training period in person with Chris LaHatte at Marina del Rey. Much was learned from this process, and Chris reports the training was of great benefit.

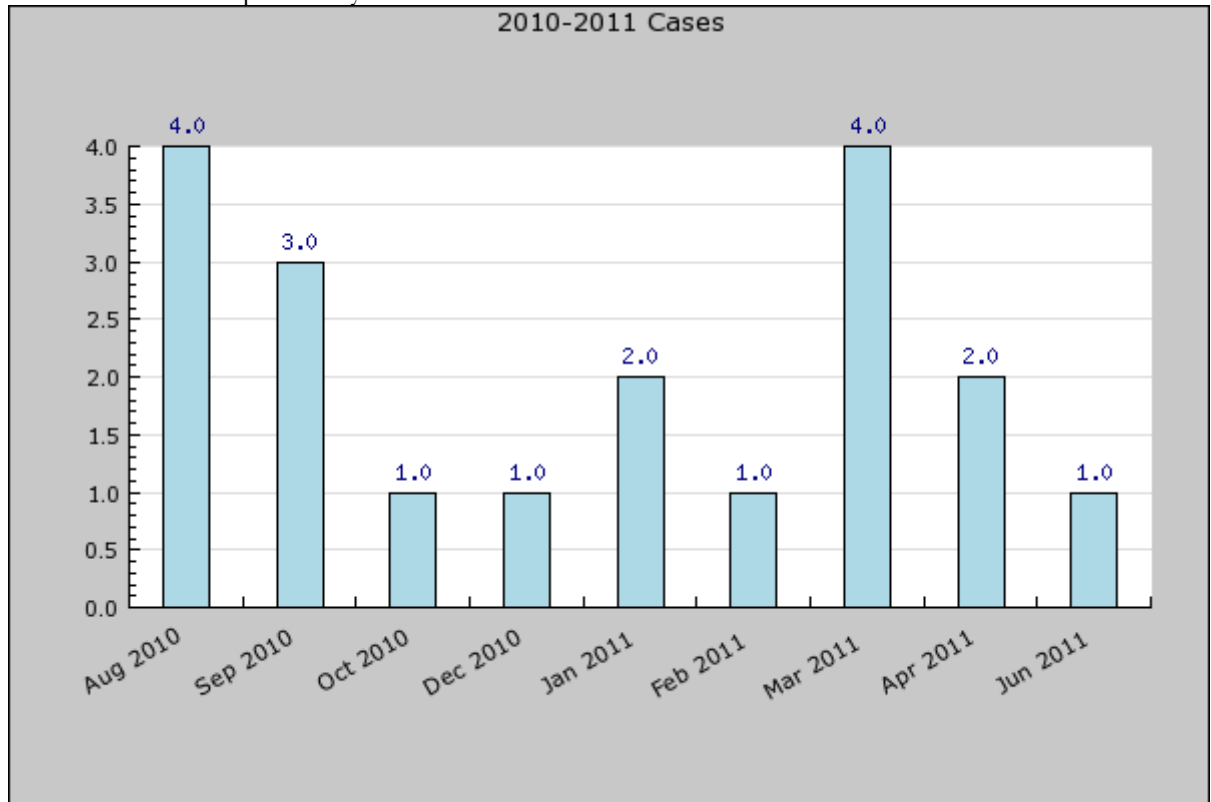
Outreach

A significant part of the activity of the Ombudsman is to reach out and raise awareness of the office. A number of the significant events are described below.

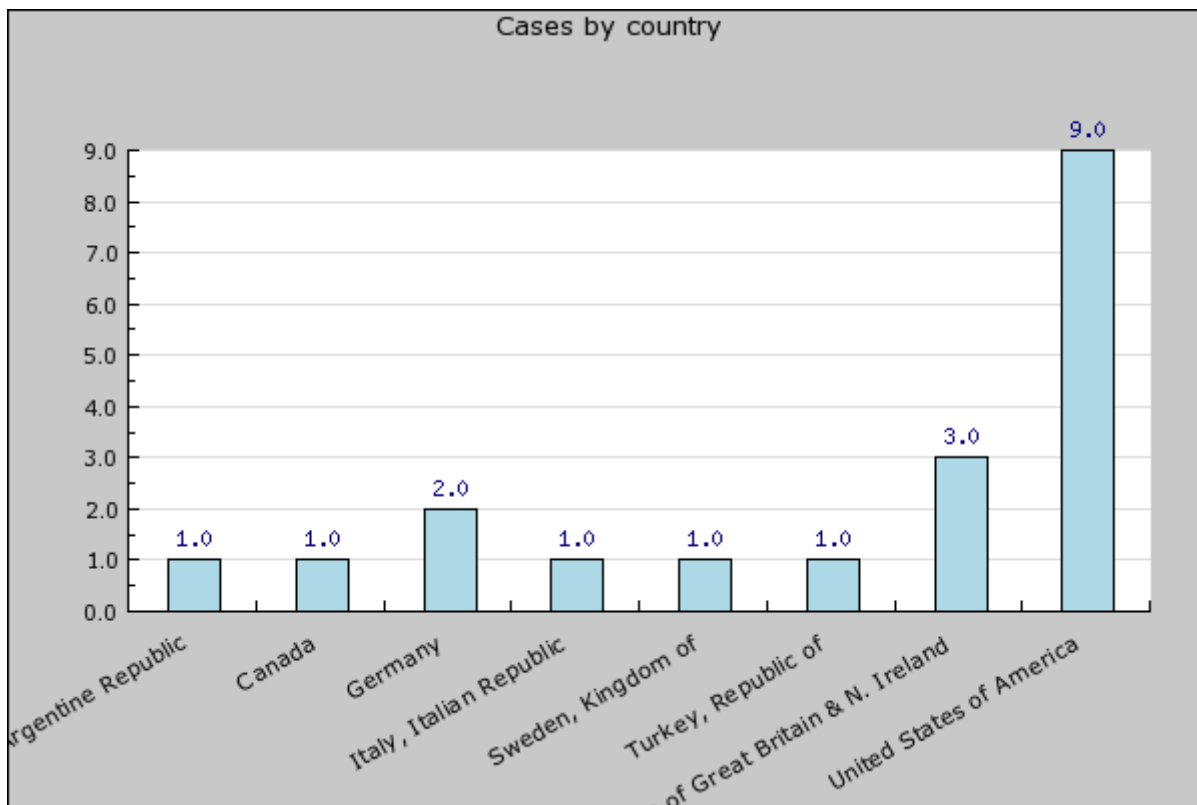
Name	Activity	Location	Date	Participation
Frank Fowlie	Forum on Court Technology	Ottawa, Canada http://www.ccct-cctj.ca/forum/en/programfull/	September 21-24, 2010	Conference Speaker
Frank Fowlie	United States Ombudsman Association Annual Conference	Ohio, United States of America	October 05-08, 2010	Conference Speaker
Frank Fowlie	Pepperdine University Seminar on Dispute Resolution	Woodstock, Vermont, United States of America	October 14-16, 2010	Personal Development
Frank Fowlie	Cyberweek 2010- demonstrate online mediation system with the Claim Room	Online -Canada	October 25-29 2010	Online moderator - Cyberweek
Frank Fowlie	International Forum on Online Dispute Resolution and Consumer Protection	Vancouver, Canada www.odrandconsumers2010.org	November 01-05, 2010	Conference Speaker
Frank Fowlie	Kevin Fenwick	Regina, Canada	November 18, 2010	Saskatchewan Ombudsman courtesy Call
Frank	University of	Regina Saskatchewan	November	Academic

Fowlie	Regina	Canada	18, 2010	Lecture Bachelor Of Human Justice students
Frank Fowlie	ICANN Meeting	Cartagena, Republic of Colombia,	December 04-10, 2010	Ombudsman
Herb Waye	ICANN Meeting	San Francisco, United States of America	March 11-18, 2011	Ombudsman
Frank Fowlie	Georgetown University	Washington, DC, United States of America	March 19, 2011	Academic Lecture on ODR and systems design Cathy Costatino

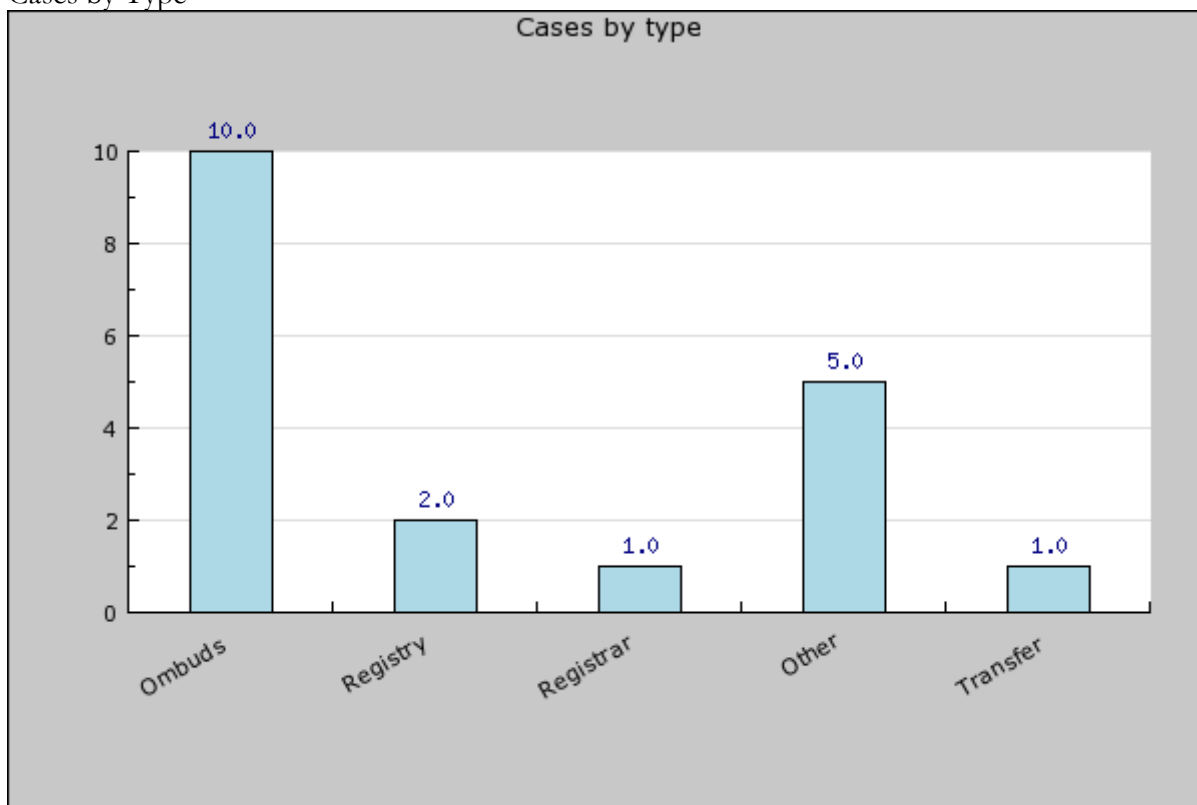
Referrals and Complaints-by month



By country



Cases by Type



Interim Ombudsman

In February 2011, ICANN’s Adjunct Ombudsman, Herb Waye, was asked by the Board of Directors to step in and ensure the Office of the Ombudsman remained operational upon the departure of the Ombudsman and until such time as a new Ombudsman was appointed. With five years of experience as Adjunct Ombudsman with ICANN, Herb was asked to maintain the case management system and monitored complaints and correspondence with the Office

of the Ombudsman. In March 2011 he was appointed as Interim Ombudsman at the San Francisco ICANN which entitled him to assume the full role of the ICANN Ombudsman. During his term as Interim Ombudsman Herb attended the San Francisco and Singapore ICANN meetings and reported to the Board of Directors at both occasions. His comments can be viewed online. Herb turned the control of the Office of the Ombudsman over to Chris LaHatte upon Chris' appointment as ICANN's second Ombudsman in August 2011 and reassumed his role as Adjunct Ombudsman.

During his term as Interim Ombudsman there were 12 complaints received by the Office, of which most were non-jurisdictional and referred to ICANN registrar and registry liaison for resolution. There were several complaints that required the attention of the Ombudsman but were not urgent enough to demand immediate intervention or investigation and were thus turned over to the new Ombudsman upon his appointment.

Observations

There continue to be many complaints which are outside the jurisdiction of the office. The approach taken to these has been to try to guide the complainant to the appropriate place to resolve the problem. Although the scope of the jurisdiction is very clear on the website, regrettably many do not read this before they lodge a complaint. However there had still been some substantial complaints within the jurisdiction, on a number of different themes including being treated fairly at meetings, in the area of the assistance given to attendees, and the ability to speak at meetings, both full ICANN meetings and at supporting organisation meetings. This appears to be a communication issue rather than any systemic problem.

From the ICANN Ombudsman Framework:

Confidentiality

All matters brought before the Ombudsman shall be treated as confidential. The Ombudsman shall only make enquiries or advise staff and Board members at ICANN of the existence and identity of a complainant in order to further the resolution of the complaint. ICANN staff and Board members are to hold the existence of a complaint and the identity of a complaint as confidential, except to further the resolution of a complaint.

This report shall not be further released by any party receiving the report without the consent of the Office of the Ombudsman.

Chris LaHatte

Chris LaHatte