

## Response to Documentary Information Disclosure Policy Request

To: Mr. Edward Hasbrouck  
Date: 6 May 2009  
Re: Request No. 20090403-1

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This is a response to your email dated 3 April 2009, which is, as you note, a forward of an email to Frank Fowlie, the ICANN Ombudsman. In that email, you indicated that the “four specific numbered items” contained within that message are being submitted to ICANN Documentary Information Disclosure Policy (DIDP). Thus we may also reference your email as a “Request for Information” or “Request” for purposes of this response. Your email is copied in full on the attached pages.

### Items Requested

- (1) The URL of the minutes of any Board meeting recording a resolution to appoint an Ombudsman and/or renew that appointment, the text of that resolution, and the vote on that resolution;
- (2) The URL at which notice was given of any such meeting;
- (3) The URL at which any such proposal for appointment and/or renewal of appointment of an Ombudsman was posted in advance of that meeting; and
- (4) The URL recording the public forum which was provided for comment on that proposal.

These four questions were also submitted to the ICANN Mexico City Question box on or before March 5, 2009, *see* <http://hasbrouck.org/blog/archives/001642.html>, prior to the date you initially forwarded your email to the DIDP address. A response to your questions has since been published at <http://www.icann.org/en/participate/mexico-city-public-forum-response.htm>.

The published response to your questions:

“Frank Fowlie was appointed by the ICANN Board and has served as the Ombudsman since 2004. See: <http://www.icann.org/en/announcements/announcement-24nov04-2.htm>. Since that time, the Ombudsman’s position has been subject to Board oversight. Also please note that the Ombudsman Framework is currently posted for public comment: <http://icann.org/en/announcements/announcement-13mar09-en.htm>.”<sup>1</sup>

ICANN’s Ombudsman also provided a partial response to your questions on February 27, 2009 at <https://omblog.icann.org/?paged=2>, noting that the “Ombudsman was appointed on November 1, 2004, with the appointment consistent with ICANN’s Bylaw V.”

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<sup>1</sup> The public comment period on the Ombudsman Framework was open from March 13, 2009 through April 12, 2009. No comments were received. *See* <http://www.icann.org/en/public-comment/public-comment-200904.html#reomfr>.

A direct response to each of your questions is already publicly available, and is a compilation of other publicly available information. As a reminder, the DIDP is reserved for requesting information that is not publicly available, as stated in the ICANN Accountability & Transparency, Frameworks and Principles, available at <http://www.icann.org/transparency/acct-trans-frameworks-principles-10jan08.pdf>.

**From:** Edward Hasbrouck <[edward@hasbrouck.org](mailto:edward@hasbrouck.org)>  
**Date:** Fri, 3 Apr 2009 21:59:50 -0700  
**To:** DIDP <[didp@icann.org](mailto:didp@icann.org)>  
**Subject:** Re: (Fwd) appointment of Ombudsman

Having received no response from Mr. Fowlie, I forwarded my message to this address to request that ICANN provide the information I have requested (i.e. in the four specific numbered items in my original message). I hereby renew and reiterate my request that ICANN provide this information.

Sincerely,

Edward Hasbrouck

----- Message from [didp@icann.org](mailto:didp@icann.org) -----  
Date: Fri, 3 Apr 2009 18:42:26 -0700  
From: DIDP <[didp@icann.org](mailto:didp@icann.org)>  
Reply-To: DIDP <[didp@icann.org](mailto:didp@icann.org)>  
Subject: Re: (Fwd) appointment of Ombudsman  
To: "[edward@hasbrouck.org](mailto:edward@hasbrouck.org)" <[edward@hasbrouck.org](mailto:edward@hasbrouck.org)>  
Cc: DIDP <[didp@icann.org](mailto:didp@icann.org)>

> Dear Mr. Hasbrouck,  
>  
> Thank you for the recent forwarding of your email addressed to Frank Fowlie,  
> the ICANN Ombudsman. In the future, please limit your use of the  
> [didp@icann.org](mailto:didp@icann.org) email to requests for information submitted under ICANN's  
> Documentary Information Disclosure Policy.  
>  
> ICANN  
> 4676 Admiralty Way #330  
> Marina del Rey, California 90292  
> [didp@icann.org](mailto:didp@icann.org)  
>  
>  
>  
> ----- Forwarded Message  
> From: Edward Hasbrouck <[edward@hasbrouck.org](mailto:edward@hasbrouck.org)>  
> Date: Mon, 2 Mar 2009 08:00:07 -0800  
> To: <[didp@icann.org](mailto:didp@icann.org)>  
> Subject: (Fwd) appointment of Ombudsman  
>  
> ----- Forwarded message follows -----  
> From: Edward Hasbrouck <[edward@hasbrouck.org](mailto:edward@hasbrouck.org)>

> To: [ombudsman@icann.org](mailto:ombudsman@icann.org)  
> Subject: follow-up in reply to your blog comment  
> Date sent: Sat, 28 Feb 2009 21:59:09 -0800  
>  
> Once again I responded to your comments in your blog, and once again my  
> comments initially appeared, but then disappeared within a few hours. So  
> once again I am sending them to you by e-mail, to make sure you have  
> received them, and have re-posted them on ICANNwatch at:  
>  
> <http://www.icannwatch.org/comments.pl?sid=2068&cid=16997>  
>  
> =====  
>  
> Mr. Fowlie:  
>  
> The <sup>3</sup>confirmation<sup>2</sup> [of the appointment of an Ombudsman] you link to in  
> your comment is a press release. The Bylaws specifically require (for good  
> reason, I presume) that the Ombudsman must be appointed by the Board. They  
> do not permit that function to be delegated, nor is there any record of an  
> attempt at such delegation. The Bylaws require specific procedures  
> (meeting notices, posted agendas, public comment forums, openness and  
> transparency, etc.) for Board decisions.  
>  
> The Bylaws do not permit the Board to make decisions by press release.  
>  
> If you or the Board believes that an Ombudsman has been appointed in  
> accordance with the Bylaws, and/or that such an appointment has been  
> renewed after the expiration of the initial 2 year term specified by the  
> Bylaws, I request in accordance with the Bylaw on transparency that you  
> provide:  
>  
> (1) the URL of the minutes of any Board meeting recording a resolution to  
> appoint an Ombudsman and/or renew that appointment, the text of that  
> resolution, and the vote on that resolution;  
>  
> (2) the URL at which notice was given of any such meeting;  
>  
> (3) the URL at which any such proposal for appointment and/or renewal of  
> appointment of an Ombudsman was posted in advance of that meeting; and  
>  
> (4) the URL recording the public forum which was provided for comment on  
> that proposal.  
>  
> To the best of my knowledge and belief, after diligent search of the ICANN  
> Web site, no such URL<sup>1</sup>s exist.  
>  
> You are not ICANN<sup>1</sup>s duly appointed Ombudsman. You never have been  
> ICANN<sup>1</sup>s duly appointed Ombudsman. If you had been duly appointed in 2004,

> your initial appointment would have expired in 2006. ICANN has never  
> properly appointed \*anyone\* as Ombudsman, and has never renewed any  
> appointment of an Ombudsman.

>  
> Sincerely,

>  
> Edward Hasbrouck

>  
>  
> ----- End of forwarded message -----  
> -----

> Edward Hasbrouck  
> <[edward@hasbrouck.org](mailto:edward@hasbrouck.org)>  
> <<http://hasbrouck.org>>  
> +1-415-824-0214  
>  
>

----- End message from [didp@icann.org](mailto:didp@icann.org) -----

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Edward Hasbrouck  
<[edward@hasbrouck.org](mailto:edward@hasbrouck.org)>  
<<http://hasbrouck.org>>  
+1-415-824-0214

"The Practical Nomad: How to Travel Around the World"  
(4th edition 2007)  
"The Practical Nomad Guide to the Online Travel Marketplace"  
<<http://www.practicalnomad.com>>

Around-the-World and multi-stop international air tickets:  
<<http://hasbrouck.org/tickets/>>