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Explaining the Reconsideration and Ombudsman Processes

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Purpose

To provide the community with an explanation of the current Reconsideration and Ombudsman processes and provide them an opportunity to directly engage with members of the Board Governance Committee and the Ombudsman about those processes.

Agenda

1 The Reconsideration Process

2 The Ombudsman Process

3 Q&A



The Reconsideration Process

What is the Reconsideration Process?

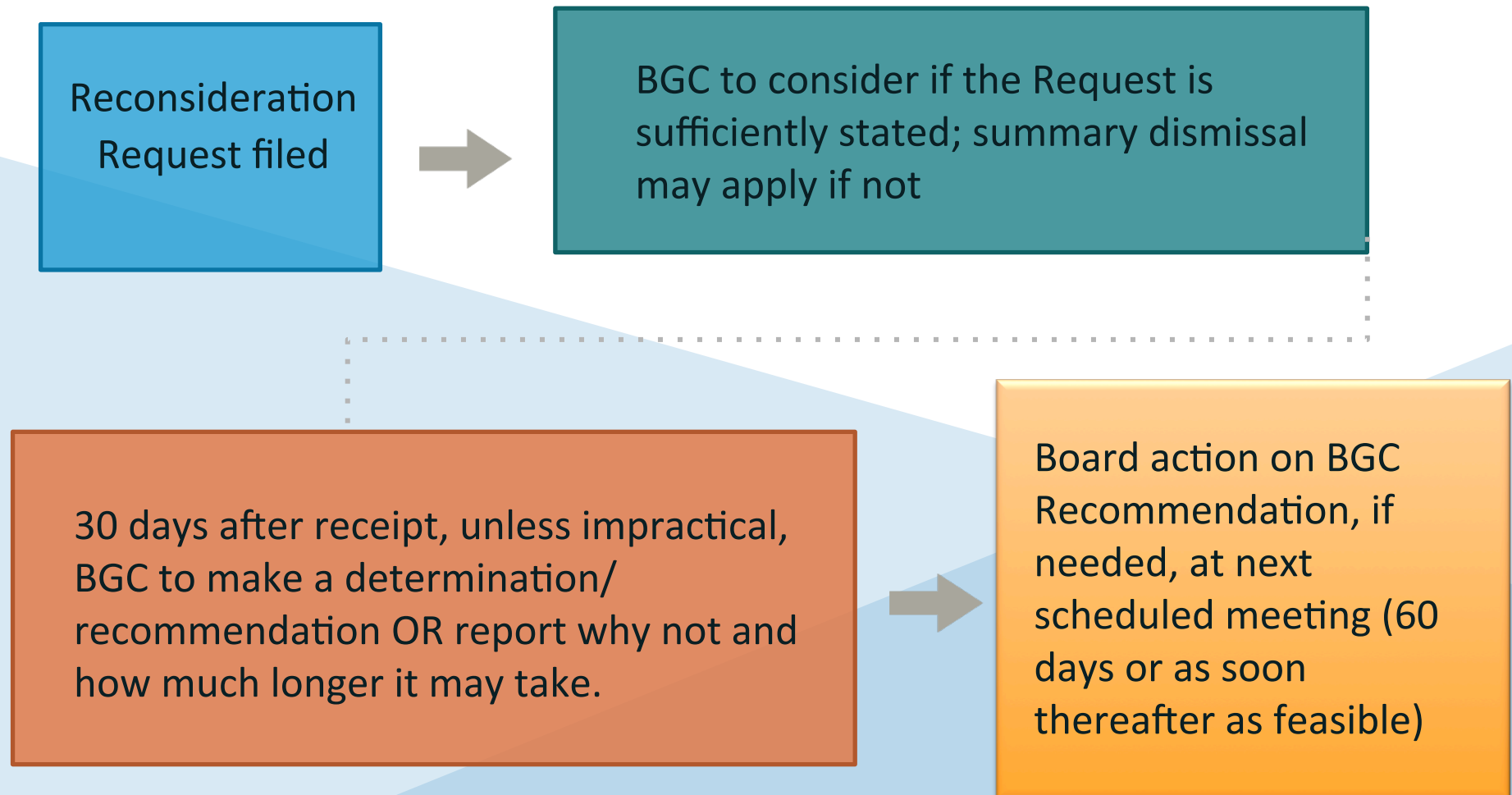
Reconsideration is an accountability mechanism provided by Article IV, Section 2 of the ICANN Bylaws by which any person or entity materially and adversely affected by an action (or inaction) of ICANN may request reconsideration of the action (or inaction).

What is in Scope of Reconsideration?

Reconsideration available to those **adversely affected** by:

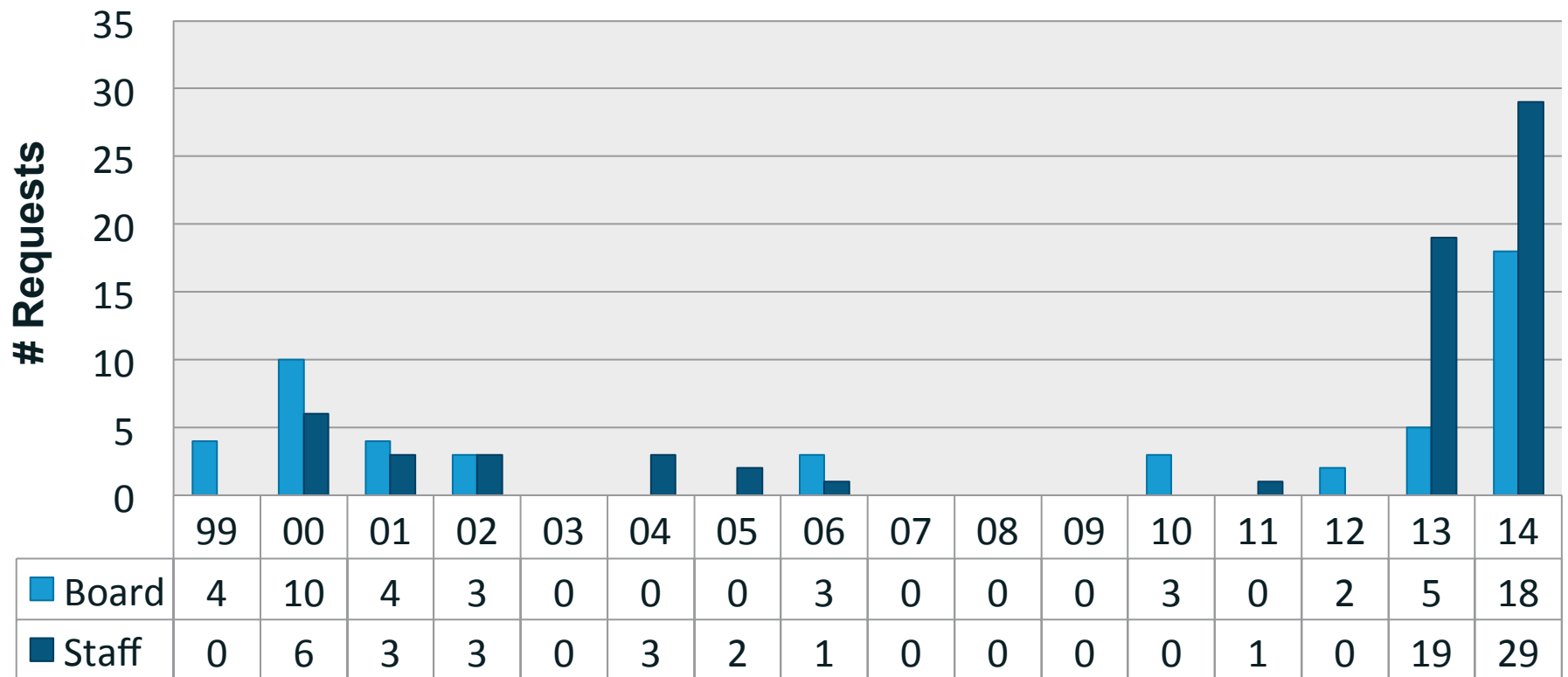
- a. **Staff** action or inaction that **contradicts established ICANN policy(ies)**; or
- b. **Board** action or inaction **without** consideration of **material information**, unless the requester could have submitted, but did not submit, the information at the time of action or inaction; or
- c. **Board** action or inaction if based on Board's **reliance on false or inaccurate material information**.

Process Flow for a Reconsideration Request



Overview Of Reconsideration Requests Filed From 1999 – 2014 (cont.)

Number of Board Action (Inaction) vs. Staff Action (Inaction) Requests Filed



The Reconsideration Process And The New gTLD Program

- ⦿ Third party provider determinations are treated as staff action for Reconsideration purposes
- ⦿ Filing of a Reconsideration Request impacts the status of other applications in the same contention set
- ⦿ In 2013, 21 of 23 Requests filed were related to the New gTLD Program. In 2014, 44 of 46 Requests filed were related to the New gTLD Program.

Examples of Reconsideration Requests Filed (cont.)

Requests that Satisfied the Standards of Review

⊙ Request 14-1:

- ✦ **Contention:** IO objected to Application without public opposition as required in Guidebook
- ✦ **Support:** Letters explaining that the “opposition” relied on by IO, was not opposition
- ✦ **Determination:** IO’s Objection did not satisfy the procedures in Guidebook; objection and results voided and Application to proceed

Examples of Reconsideration Requests Filed (cont.)

Requests that Satisfied the Standards of Review (cont.)

⦿ Request 14-44:

- ✦ **Contention:** Community Priority Evaluation (CPE) Panel failed to comply with all CPE procedures
- ✦ **Support:** CPE Panel reviewed, but inadvertently failed to verify 54 letters of support
- ✦ **Determination:** CPE Panel violated established CPE procedure requiring all relevant letters to be verified; CPE to be re-done

Examples of Reconsideration Requests Filed (cont.)

Requests that did NOT meet the standards of review

Requests 13-7, 13-12, 13-20, 13-21, 14-2: Challenge of expert determination, claiming process violation, but BGC found Request really challenged merits of underlying expert determination.

Relevant Links

- ⦿ ICANN Bylaws, Article IV, Section 2, at <https://www.icann.org/resources/pages/governance/bylaws-en#IV>
- ⦿ Reconsideration page at <https://www.icann.org/resources/pages/accountability/reconsideration-en>
- ⦿ Suggested form for submitting a Reconsideration Request at <https://www.icann.org/en/system/files/files/request-form-11apr13-en.doc>
- ⦿ Accountability Mechanisms page at <https://www.icann.org/resources/pages/mechanisms-2014-03-20-en>
- ⦿ Board of Governance Committee page at <https://www.icann.org/resources/pages/governance-committee-2014-03-21-en>
- ⦿ Annual Reports on Reconsideration Requests at <https://www.icann.org/resources/pages/annual-reports-2012-02-25-en#reconsideration-requests>

The image features a teal background with a white network of dots and lines that form a stylized world map. The dots are of varying sizes and are connected by thin white lines, creating a complex web that outlines the continents. The text "The Ombudsman Process" is centered in white, bold, sans-serif font.

The Ombudsman Process

What Is An Ombudsman?

The ICANN Ombudsman is:

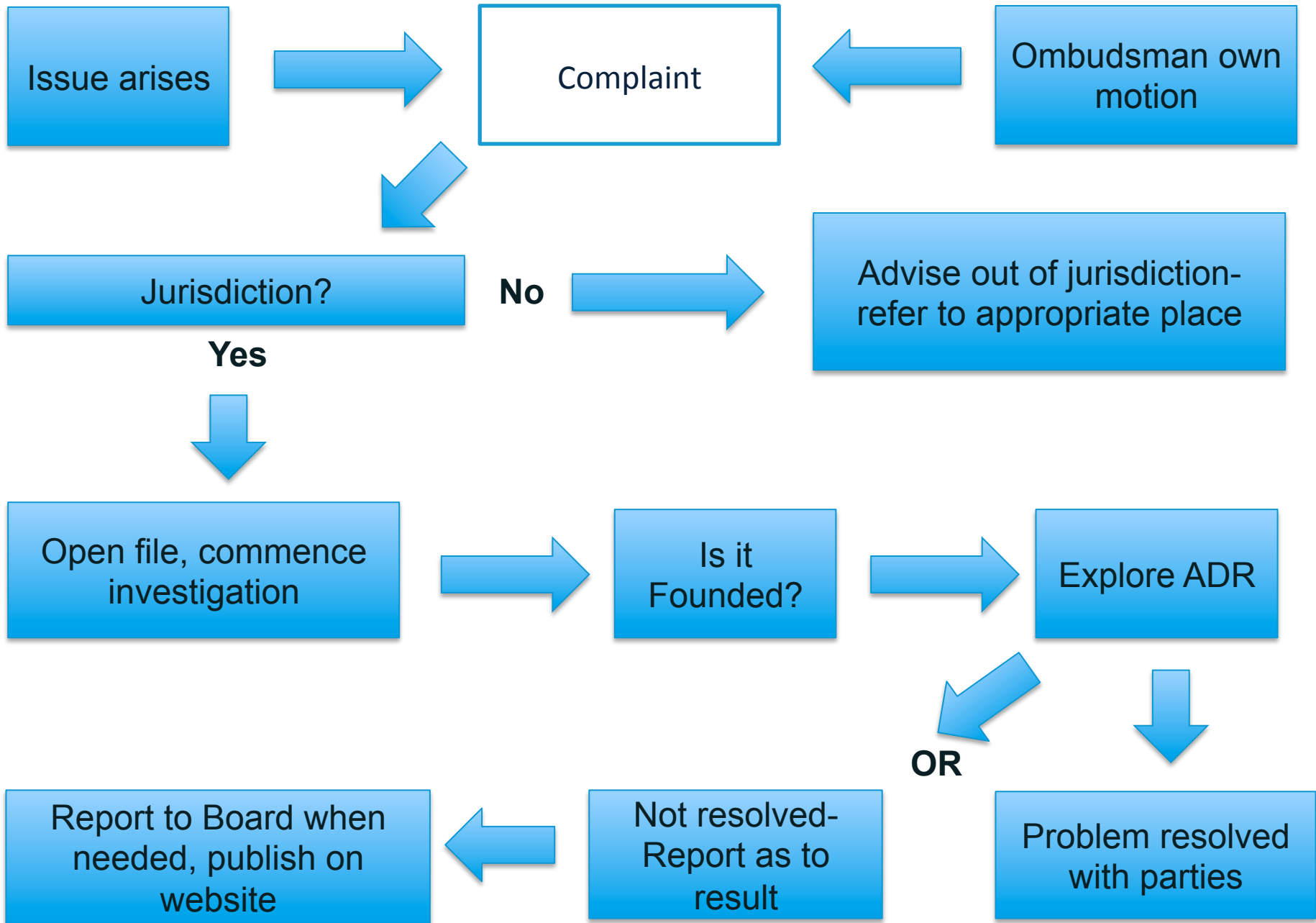
- ⦿ An investigator of complaints about unfairness
- ⦿ A reviewer of facts
- ⦿ An Alternative Dispute Resolution practitioner (negotiation, facilitation, shuttle diplomacy)

Ombudsman Jurisdiction

- ⦿ Ombudsman's jurisdiction in Bylaws, Article V, is for actions, decisions, or inactions by ICANN staff, board, or supporting structures.
- ⦿ Part of Accountability function of ICANN
- ⦿ Ombudsman's role to deal with unfairness, process and delay in community
- ⦿ Symbol of good governance

Operation

- ⦿ Informal quick resolution
- ⦿ Accessible without lawyers
- ⦿ Mediation means relationships can be preserved
- ⦿ Confidential where power imbalance



Own Motion Investigation

In the Community's Interests?

Possible systematic unfairness?

Process concerns?

Not being dealt with by ICANN?

Report to Board, seek agreement to investigate.

Examples of Complaints

- ① I was at a meeting and comments were made which were disrespectful and sexist.
- ① I have been waiting for a decision about membership of a supporting organisation but there is delay/I have been refused.
- ① I rang the office of ICANN, but the person I spoke to was rude to me and did not listen to my problem.
- ① New gTLD decisions and results, process unfairness and delay

Useful Links

Ombudsman Home Page

<http://www.icann.org/en/help/ombudsman>

Page to lodge Complaint

<https://omb.icann.org/portal/complaint.php>

Ombudsman Blog

<http://omblog.icann.org/>

Contact Details



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A world map where the continents are defined by a network of white dots and thin white lines. The dots represent nodes, and the lines represent connections between them, creating a complex web-like structure. The background is a solid orange color.

Questions?