RPM PDP Working Group
11 March 2018

Action Items:

1. RPM PDP Working Group:
a. Selection of a Co-Chair: Staff will send a reminder to the WG that the co-chair vacancy left by J Scott remains open and if someone wishes to self-nominate, or if a group of WG members wishes to nominate someone, they should advise us.
b. three individuals were invited to work up something in writing to share with the WG for initial email discussion, followed by WG oral discussion depending on the course of the email dialogue. Those were:

- John McElwaine regarding his proposal to move URS to Phase 2 (and noting that this would require a Charter change to be considered and approved by Council).
- Paul McGrady on potential impact of GDPR on URS and UDRP and how the WG should factor that into its work.
- Susan Payne on additional work needed to help the selected survey provider prepare the data survey on TMCH and Sunrise.

2. RPM Sub Team on Practitioners: Finalize the questions and list of practitioners. Specifically:
a. Edit the questions to be more concise. Use radio buttons, etc. Use an online survey.
b. Think about a light version of the survey – such as the 10 most important questions.

Notes:

1. Selection of a Co-Chair

- There is an open position.
- No nominations or self-nominations thus far.
- Suggested changes in our course forward and interested WG members can send written proposals.

1a. Working Group Timeline

Discussion:

- Any thought to finishing up URS and then sending the Charter back to the Council for consideration?

- Very actively working on URS and we have an RFP out to assist with a survey. We don't expect the results back until July. Don't have much more we can do until we can get the data back.
- GDPR: We need to look more at how that might affect URS. Looking for clarity by the end of this week. Not clear at all at this point. GAC is supposed to be building the access system, but not clear on the timing.
- Proposal: Finish up the work on everything but the URS. Look at the URS and UDRP together in Phase II. Send the charter back to the Council to get clarity on the process to work through the rest of the work.
- Charter is on URS and all RPMs. We would need a consensus in the WG to request a change to our charter.
- If we decide URS and UDRP go into Phase II, what do we do? Could provide guidance to the Survey Provider. Could be extensive work. As part of the Phase One timeline, staff had noted that there will likely be a need for either additional or longer meetings once the survey vendor is selected and after the Data Sub Team has worked with it to develop an initial set of questions.
- Need to concentrate on the survey.
- Could talk through the workflow issues after we are back. WG members should submit their proposals.
- Maintain the balance of substantive interests.
- The relationship between URS and UDRP is fairly self-evident.
- Considerations for people in chairing the WG. Co-Chairs have had significant job changes and WG members may not be aware.

3. Sub Team on Practitioners

Action Items:

1. Edit the questions to be more concise. Use radio buttons, etc. Use an online survey.
2. Think about a light version of the survey – such as the 10 most important questions.

3a. Questions for Practitioners

General Comments:

- Design the survey with a limit to response text.
- Avoid yes or no types of questions. Helpful to go back and clarify.
- The more questions there are the less likely people will respond.
- We should emphasize those with the most experience with URS. But the Respondent side doesn't have many repeat practitioners.
- Note that .SMD should be changed to SMD.

Substantive Issues, Burden of Proof:

- Questions 1, 2, and 7 are all part of the same thing. Bring the related questions together.
- On Questions 1 and 2 – you are asking practitioners of the URS whether they understand what is the burden of proof standard – why ask that? Questions were originally directed at examiners as well.
- On questions 1 and 2: strongly object to that question; this is questions to practitioners who are supposed to be the experts. This might be the kind of question for a general audience, but not for practitioners, or even examiners, who one would expect to be experts.
- Unless the question is really intended to get at something else, like maybe whether the standard is being applied consistently, which is a totally different question.
- Instead of understandable, what about an effective or feasible standard given the summary nature of the proceeding and evidence available.
- "If you are a registrant?" Thought practitioners weren't registrants, but were experts (i.e. lawyers representing multiple parties, etc.).
- In the subgroup we thought that there might be value in addressing specific questions toward practitioners who have only filed a few cases. for the data sample we were working with, there were fewer practitioners with many, many cases and then a long tail of people who had filed 3, 2, or 1 case. perhaps it could it be useful to break up this group of practitioners and devise different sets of questions for each camp

Substantive Issues, 2.3 Tactics and Approaches:

- Second question – send the list not only to the URS practitioners but also to the UDRP practitioners.

3b. List of URS Practitioners – from the Sub Team:

- Brainstorming the list that the Sub Team members know.
- Groups that we thought would have experience on both brand and respondent side.'

3c. List of URS Practitioners extracted from the cases:

- Discussion of how many cases practitioners have handled and where to cut off the list for outreach.
- Many that have handled just one case.

<QUESTION.> Greg Shatan was able to create this list of practitioners who had served as counsel for the largest number of URS cases, can we do the same for UDRP and take the top 5% or whatever % produces the number that is within the available budget for distribution of the questions to practitioners. And even 1 case if the issues are unique could be instructive. <QUESTION>

Staff response: There is no budget and resources also are an issue. In addition, staff will need the Sub Team and WG members to assist in getting the contact information.