

LIST OF TOPICS FOR REVIEW OF THE UNIFORM RAPID SUSPENSION SYSTEM (URS)

Draft prepared by ICANN staff for RPM Working Group use – 1 December 2017

Introductory Note:

During the Working Group call on 30 November, a majority of attendees supported the idea that, instead of a detailed list of refined Charter questions, a shorter list of specific topics (based on the existing Charter questions and any new suggestions adopted) should be developed. A standard set of high-level questions will then be applied to each topic on the list. This approach was agreed to be similar to that which had been adopted for other RPMs, e.g. the Trademark Claims Charter questions.

The suggested standard set of high-level questions (some of which, e.g. Question 1 and/or 5, may need to be modified for certain topics) were:

- 1) *Has it been used?*
- 2) *What was the original purpose and is it being fulfilled?*
- 3) *Bearing in mind the original purpose, have there been any unintended consequences?*
- 4) *What changes could better align the mechanism with the original purpose/facilitate it to carry out its purpose?*
- 5) *How many managed to prevail?*

The following is a draft of a possible list of specific topics related to URS review; for context, please refer to the accompanying table that cross-references the suggested topics to their original Charter questions:

THE COMPLAINT:

1. Standing to file
2. Grounds for complaint

THE RESPONSE:

1. Duration of reply period
2. Response fee

STANDARD OF PROOF:

1. Standard of proof

DEFENSES:

1. Scope of defenses

REMEDIES:

1. Scope of remedies
2. Duration of suspension period

APPEAL:

1. Appeal process

POTENTIALLY OVERLAPPING PROCESS STEPS:

1. Potential overlap concerning duration of respondent appeal, review and extended reply periods along the URS process timeline

COST:

1. Cost allocation model

LANGUAGE:

1. Language issues, including current requirements for complaint, response, determination

ABUSE OF PROCESS:

1. Misuse of the process, including by trademark owners, registrants and “repeat offenders”
2. Forum shopping
3. Other documented abuses

EDUCATION & TRAINING:

1. Responsibility for education and training of complainants, registrants, registries and registrars

URS PROVIDERS:

1. Evaluation of URS providers and their respective processes

ALTERNATIVE(S) TO THE URS:

1. Possible alternative(s) to the URS, e.g. summary procedure in the UDRP

Note for Additional Reference:

The following questions, drawn from the general section of the PDP Charter, were also included in the original table of Charter questions circulated to the Working Group:

- Do the RPMs adequately address issues of registrant protection (such as freedom of expression and fair use)?
- Will, and if so to what extent, changes to one RPM will need to be offset by concomitant changes to the others?
- Do the RPMs collectively fulfil the objectives for their creation... In other words, have all the RPMs, in the aggregate, been sufficient to meet their objectives or do new or additional mechanisms, or changes to existing RPMs, need to be developed?
- Should any of the New gTLD Program RPMs (such as the URS), like the UDRP, be Consensus Policies applicable to all gTLDs, and if so what are the transitional issues that would have to be dealt with as a consequence?
- Are recent and strong ICANN work seeking to understand and incorporate Human Rights into the policy considerations of ICANN relevant to the UDRP or any of the RPMs?