

Finalizing PDP Recommendations for the URS in light of the EPDP Phase 1 Recommendation #27 Wave 1 Report

Documents

- ICANN Org EPDP Phase 1 Recommendation #27 Wave 1 Report: <https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-1-recommendation-27-18feb20-en.pdf>
- GNSO Council Support Staff Table of Possible Next Steps: <https://gnso.icann.org/en/drafts/next-steps-epdp-phase-1-wave-1-rec-27-10mar20-en.pdf>

Policy / Procedure	Type of changes required ¹	Possible next step for GNSO Council (March 2020)	Proposal from RPM PDP support staff (July 2020)
<p>Uniform Rapid Suspension System Procedure (URS)</p> <p><i>The Procedure explains how to file a URS claim against a domain name registration, including fees, filing requirements, and steps</i></p>	<ol style="list-style-type: none"> 1. Consistency of terminology (WHOIS/RDS/Whois data/Registration data) 2. URS section 1.2 includes various references to “Whois.” The context of this provision is a description of the contents of a complaint submitted to a URS provider. References include section 1.2.3, describing Name of Registrant and available contact information available in Whois. Section 1.2.4 requires inclusion of the specific domain names that are the subject of the complaint, accompanied by “a copy of the currently available Whois information.” 3. URS section 1.2 provides that a service provider make space in the complaint form for the enumerated information associated with the URS complaint. Per the EPDP Team’s Phase 1 recommendation 23, this provision may be updated to clarify that a complaint will not be deemed administratively deficient for failure to provide the name of the Respondent and all other relevant contact information. 	<p>1: Request EPDP Phase 1 IRT or establish new IRT to address terminology updates</p> <p>2-9: Consult with the RPM PDP WG to determine which, if any, of these items have already been addressed, or could be easily addressed, without compromising the timeline. Based on feedback,</p>	<p>1., 2., 8.: Add Implementation Guidance in relation to URS Recommendations #1, #2 & #3. Terminology update to be done either by EPDP Phase 1 IRT (already in place) or eventual RPM Phase 1 IRT. Decision to be made by ICANN org (GDD) managing RPM Phase 1 implementation based on anticipated timelines for both IRTs. Implementation Guidance to clarify that URS Procedure/Rules terminology updates at this time not meant to exclude any other terminology updates that will be needed (e.g. by UDRP review in Phase 2 or additional EPDP recommendations).</p> <p>3., 4.: Addressed by the WG’s proposed recommendation that “The</p>

¹ Note, the items covered here are those that are flagged in the wave 1 report as requiring changes. Other items, not requiring changes, were covered in the report but have not been reproduced here.

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<p><i>involved in the process.</i></p>	<p>4. URS section 3.3 provides that “Given the rapid nature of this Procedure, and the intended low level of required fees, there will be no opportunity to correct inadequacies in the filing requirements.” URS section 3.4 provides that “if a Complaint is deemed non-compliant with filing requirements, the Complaint will be dismissed without prejudice to the Complainant filing a new complaint. The initial filing fee shall not be refunded in these circumstances. This provision may be modified to clarify that a Complainant's complaint will not be deemed administratively deficient for failure to provide the name of the Respondent and all other relevant contact information.</p> <p>A question to consider is whether URS sections 3.3 and 3.4 should be updated to allow for amendment of a URS Complaint. Per the EPDP Team’s Phase 1 recommendation 21, the GNSO Council instructs the review of all Review of All Rights Protection Mechanisms in All gTLDs (RPMs) PDP Working Group to consider whether (a) there is a need to update existing requirements to clarify that a complainant must only be required to insert the publicly-available RDDS data for the domain name(s) at issue in its initial complaint, and (b) upon receiving updated RDDS data (if any), the complainant must be given the opportunity to file an amended complaint containing the updated respondent information.</p> <p>5. URS section 4 describes requirements for notice and locking of a domain name. Section 4.2 notes that, within 24 hours after receiving a Notice of Lock from the registry operator, a URS provider notifies the registrant of the complaint by sending a hard copy “to the addresses listed in the Whois contact information.” This may be revised to clarify that the provider</p>	<p>determine appropriate next steps.</p>	<p>Working Group recommends that URS Rule 3(b), and, where necessary, a URS Provider’s Supplemental Rules be amended to clarify that a Complainant must only be required to insert the publicly-available WHOIS/Registration Data Directory Service (RDDS) data for the domain name(s) at issue in its initial Complaint. Furthermore, the Working Group recommends that URS Procedure para 3.3 be amended to allow the Complainant to update the Complaint within 2-3 calendar days after the URS Provider provides updated registration data related to the disputed domain name(s).”</p> <p>5., 6.: Not specifically addressed by the WG – propose inclusion as part of the Implementation Guidance referred to in Point #1. above (i.e. clarify that a Provider’s obligation is limited to what is in the public RDDS except where the relevant information has been provided to it by the registry/registrar, as applicable; and clarify what information may not be changed by a registrant, i.e., public and non-public data elements). In addition, WG consideration of URS Proposal #1 should take into account the need for</p>

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	<p>should continue to send the notice to all contacts publicly available in RDDS; however, along with the Notice of Lock, the Provider may also request the non-public registration data for each of the specified domain names from the registrar, which shall be provided to the Provider upon the Provider notifying the Registry or Registrar of the existence of a complaint.</p> <p>6. URS section 6 contains a procedure for default cases. Section 6.2 requires that “During the Default period, the Registrant will be prohibited from changing content found on the site to argue that it is now a legitimate use and will also be prohibited from changing the Whois information.” Updates to this section may be considered to provide clarity on the information that may not be changed by a registrant, i.e., public and non-public data elements.</p> <p>7. URS section 9.4 requires that “Determinations resulting from URS proceedings will be published by the URS Provider on the Provider’s website in accordance with the Rules.” Concerning the publication of decisions, it may be useful to reference Purpose 6-PA5 in the Final EPDP report regarding publication of registration data elements used for complaints on Dispute Resolution Provider websites to Internet users.</p> <p>8. URS section 10.2 requires that “The Whois for the domain name shall continue to display all of the information of the original Registrant except for the redirection of the nameservers. In addition, the Registry Operator shall cause the Whois to reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration” This language may be updated to refer to registration data rather than Whois.</p>		<p>any final proposal/recommendation to be consistent with this update.</p> <p>7. Not currently addressed by the WG – can be addressed as part of its resolution of URS Question #1.</p> <p>Notes:</p> <ul style="list-style-type: none"> • WG should consider relevance of Purpose 6-PA5 to the proposal by a Sub-Group B member in response to URS Question #1. • If proposal does not move forward, WG can develop an additional URS recommendation, specifically limited to reference Purpose 6-PA5 regarding publication of registration data elements in URS Determinations.

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	<p>9. Feedback from some stakeholders in June 2019 during an ICANN65 session noted the work plans of the RPM PDP Working Group, but posed the question of whether there were some procedural quick fixes to the UDRP and URS that could be adopted without waiting for the policy development process to complete. The GNSO may wish to consider this feedback in determining next steps.</p>		
<p>Uniform Rapid Suspension System Rules (URS Rules)</p> <p><i>The URS Rules describe how service providers will implement the URS in a consistent manner.</i></p>	<ol style="list-style-type: none"> 1. Consistency of terminology (WHOIS/RDS/Whois data/Registration data) 2. URS Rules section 1 includes definitions of terms used. If changes are considered to these rules as a result of GNSO policy work, it may be beneficial to update this to include the term and definition for “Registration Data Directory Services. 3. URS Rules section 2(a)(i) includes references to the Administrative Contact. The context of this provision is the UDRP provider’s responsibility to use available means to achieve notice when notifying a registrant that a UDRP complaint has been filed. The references to Administrative Contact can be removed without altering the substance of the requirement. 4. Also in URS Rules section 2(a), the stated principle is that, when forwarding a complaint, “it shall be the Provider’s responsibility to employ reasonably available means calculated to achieve actual notice to Respondent.” Given this aim, it may be beneficial to clarify that the Provider should continue to send the notice to all contacts publicly available in RDDs, and also to note that, per EPDP recommendation 23, the provider may also request non-public registration data from the registrar, which 	<ol style="list-style-type: none"> 1. Request EPDP Phase 1 IRT or establish new IRT to address terminology updates 2. Consult with the RPM PDP WG to determine which, if this item has already been addressed, or could be easily addressed, without compromising the timeline. Based on feedback, 	<p>1., 2., 3., 4., 5., 8.: As with URS Procedure (above), address through Implementation Guidance. Terminology update to be done either by EPDP Phase 1 IRT (already in place) or eventual RPM Phase 1 IRT. Decision to be made by ICANN org (GDD) managing RPM Phase 1 implementation based on anticipated timelines for both IRTs. Implementation Guidance to clarify that URS Procedure/Rules terminology updates at this time not meant to exclude any other terminology updates that will be needed (e.g. by UDRP review in Phase 2 or additional EPDP recommendations).</p> <p>6. Addressed – see proposed recommendation about translating and transmitting notices of complaint (URS Recommendations #3 & #4) but these</p>

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	<p>may aid the provider in enabling the notification to the registrant.</p> <p>5. URS Rules section 3(b)(iv) require a complaint to include the domain name(s) that are the subject of the Complaint and “a copy of the currently available Whois information.” This may be updated to clarify that a complaint will not be deemed administratively deficient for failure to provide the name of the Respondent and all other relevant contact information.</p> <p>6. URS Rules 4(b) provide that the Notice of Complaint sent to the registrant shall be transmitted in English and translated by the provider into the predominant language used in the registrant’s country or territory, as determined by the country(ies) listed in the Whois record when the Complaint is filed. This provision may not be affected by the new Registration Data Policy because the country field is still publicly displayed. With regard to 4(b), it may be beneficial to clarify that the provider may also request non-public registration data from the registrar upon presentation of a complaint.</p> <p>7. URS Rules section 15.4 requires that, with certain exceptions, “the Provider shall publish the Determination and the date of implementation on a publicly accessible web site.” Concerning the publication of decisions, it may be useful to reference Purpose 6-PA5 in the Final EPDP report regarding publication of registration data elements used for complaints on Dispute Resolution Provider websites to Internet users.</p> <p>8. Many of the points discussed here mirror those discussed in the URS Procedure analysis, above. If changes are considered to</p>	<p>determine appropriate next steps</p> <p>3. Request EPDP Phase 1 IRT or establish new IRT to address removal of reference to administrative contact</p> <p>4-8 Consult with the RPM PDP WG to determine which, if this item has already been addressed, or could be easily addressed, without compromising the timeline. Based on feedback, determine appropriate next steps</p>	<p>will not affect the methods of transmission.</p> <p>7. As with the URS Procedure (above), can address through resolution of URS Question 1.</p>

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	these rules as a result of GNSO policy work, it may be beneficial to more clearly differentiate the content of the procedure and the rules to avoid redundancies.		