

ISPCP Answers to Questions from the Co-Chairs of the IGO-INGO Access to Curative Rights Protection Working Group (IGO-ING CRP WG)

These are the answers of the Internet Service Providers and Connectivity Providers Constituency to the questions formulated by the IGO-INGO CRP WG Co-Chairs.

Question1: What is the view of your Stakeholder Group/Constituency on the WG’s decision to exclude INGOs from further consideration in this PDP?

We support the WG’s position that there is no reason for further consideration of the INGOs in this PDP.

Question 2: What should be the basis (if any) – other than trademark rights – for the “standing” criteria required in any dispute resolution process for IGOs?

“One of the requirements under the UDRP and the URS is that the complainant must possess trademark or substantively similar rights in the word(s) for which the respondent has registered an identical or confusingly similar domain name (this is sometimes commonly called the “standing” requirement)”. Even though the IGOs don’t have trademark rights, they do have “substantive similar rights” on their names and their acronyms (if they are normally identified by them) under Article 6ter of the Paris Convention and this should be the “standing” criteria in any dispute resolution process for IGOs.

Question 3: How should a curative rights process appropriately deal with this problem while also ensuring adequate due process protections for registrants?

Already some nations have stated that any IGO complaint regarding their rights over their names and acronyms should be submitted to the jurisdiction of their national court. Complaints regarding domain names should be treated the same way, just like any other complaint.

Question 4: What is your Stakeholder Group/Constituency view on this issue, and in your view are the existing UDRP and URS fees “nominal”?

This is a difficult question since the definition of “nominal” cannot be objective, according to the process followed by ICANN to select the UDRP and URS providers we must assume that the prices established are the most economical with the required quality, and as such can be considered “nominal”.

Regarding the request of input on the following topics:

Should the URS be a consensus policy? Our Constituency supports broad consensus for all our decisions.

Considerations of applying policies formulated by this WG to both “legacy” and new gTLDs. As a general principle, GNSO policies should be applied to all generic top level domains, “legacy” and new.

Should UDRP and/or URS be amended to address the needs of the IGOs? If it is

clearly proven that the actual UDRP and/or URS do not adequately address the needs of the IGO's our Constituency could accept some minor amendments, but we are not sure this is the case.

Should a new dispute resolution procedure be designed for the IGOs? Our Constituency does not support a separate procedure for the IGOs, this would be unfair for the other registrants.