**Public Comment Review Tool – EPDPSPCR-IGO – Initial Report**

Updated 09 November 2021

# RECOMMENDATION 2

| **#** | **Comment** | **Contributor** | **EPDP Response / Action Taken** |
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| **Recommendation #2: Cumulative Effect of Recommendations #3, #4, #5 & #6**  If the GNSO Council approves the recommendations set out below in Recommendations #3, #4, #5 and #6, then the EPDP team recommends that the original Recommendation #5 from the IGO-INGO Access to Curative Rights Protections PDP be rejected. | | | |
|  | The ICA recommends that notwithstanding Preliminary Recommendation #2, that the GNSO revisit the original Recommendation #5 from the original Recommendation #5 from the IGO- INGO Access to Curative Rights Protections PDP as it provides a reasonable proposal grounded in the facts and the law which appropriately balances the interests of IGOs with the rights of registrants. Alternatively, the GNSO should consider new alternatives altogether, such as a procedure comparable to that employed in British Colombia, Canada by the Civil Resolution Tribunal, as described in Leap of Faith Financial Services Inc.’s Public Comment dated August 20, 2019. | Internet Commerce Association | Concerns  **EPDP Response:**  The EPDP Team has considered this comment. Additional concerns will be considered in the EPDP Team’s review of comments to its Recommendations 3-5.  **Action Taken:**  Delete Rec 2 on the understanding that it is not needed, since the GNSO Council had resolved not to approve original Rec 5. Agreement to add opening text to EPDP Final Report to clarify that original Rec 5 was rejected by the Council and that the new EPDP recommendations address the problem that original Rec 5 was intended to solve.  **COMPLETED** |
|  | Digimedia does not support Recommendation 2 to the extent it “packages” the preliminary recommendations together as “interdependent.” (See Further Comment, below) | Digimedia.com, LP | Divergence  **EPDP Response:**  The EPDP Team has considered this comment. Additional concerns will be considered in the EPDP Team’s review of comments to its Recommendations 3-5.  **Action Taken:**  Delete Rec 2 on the understanding that it is not needed, since the GNSO Council had resolved not to approve original Rec 5. Agreement to add opening text to EPDP Final Report to clarify that original Rec 5 was rejected by the Council and that the new EPDP recommendations address the problem that original Rec 5 was intended to solve.  **COMPLETED** |
|  | Acknowledging that the GNSO Council has already elected not to approve original Recommendation #5 from the IGO-INGO Access to Curative Rights Protections PDP, the BC agrees that if Preliminary Recommendations #3, #4, #5 and #6 are approved, then the original Recommendation #5 shall be superseded and replaced by these cumulative recommendations. | ICANN Business Constituency (BC) | Support  **EPDP Response:**  The EPDP Team has considered this comment.  **Action Taken:**  Delete Rec 2 on the understanding that it is not needed, since the GNSO Council had resolved not to approve original Rec 5. Agreement to add opening text to EPDP Final Report to clarify that original Rec 5 was rejected by the Council and that the new EPDP recommendations address the problem that original Rec 5 was intended to solve.  **COMPLETED** |
|  | Finally, we understand that it is unnecessary for us to comment on Preliminary Recommendation #2 since the outcome would be subject to what ultimately happens with the package of Preliminary Recommendations #3, #4, #5 and #6. | ALAC | Concerns  Support  **EPDP Response:**  **Action Taken:**  Delete Rec 2 on the understanding that it is not needed, since the GNSO Council had resolved not to approve original Rec 5. Agreement to add opening text to EPDP Final Report to clarify that original Rec 5 was rejected by the Council and that the new EPDP recommendations address the problem that original Rec 5 was intended to solve.  **COMPLETED** |
|  | The IPC believes this Recommendation is worded poorly as it implies that the original Recommendation #5 from the IGO-INGO Access to Curative Rights Protections PDP (“Old 5”) was not already rejected. That Recommendation was not adopted by the GNSO Council. When a recommendation from a PDP is not adopted by Council, it is dead. Creating confusion that somehow the failure to adopt the recommendations of this EPDP would somehow resurrect (through non-rejection – whatever that may be) Old 5 simply doesn’t reflect how policy development works. This Recommendation needs to be reworked in order to tease out whatever concept the EPDP team was meaning to put forward. | IPC | Concerns  **EPDP Response:**  The EPDP Team has considered this comment.  **Action Taken:**  Delete Rec 2 on the understanding that it is not needed, since the GNSO Council had resolved not to approve original Rec 5. Agreement to add opening text to EPDP Final Report to clarify that original Rec 5 was rejected by the Council and that the new EPDP recommendations address the problem that original Rec 5 was intended to solve.  **COMPLETED** |