

Topic 33: Dispute Resolution Procedures After Delegation Proposed Applicant Guidebook Language

Post-delegation dispute resolution procedures provide an avenue for pursuing complaints against a registry operator's conduct, rather than an alleged bad faith registration of a second level domain name by a registrant.

Sometimes, a complainant may be required to take specific steps to address their issues before filing a formal complaint. ICANN org or qualified third-party providers administer these dispute resolution procedures. An expert panel, if appointed, determines whether a registry operator is at fault and, if so, recommends remedies to ICANN org.

Registry operators must comply with the dispute resolution mechanisms outlined in the Registry Agreement and agree to be bound by any determination by ICANN org or the expert panel, and to implement and adhere to any remedies subsequently imposed by ICANN org.

Currently, there are three post-delegation dispute resolution procedures:

1. **Public Interest Commitments Dispute Resolution Procedure (PICDRP):** The PICDRP addresses complaints that a registry operator may not be complying with one or more Public Interest Commitments (PICs) and/or Registry Voluntary Commitments (RVCs) in its Registry Agreement. PICs and RVCs are binding obligations that registry operators made to the Internet community and agreed to abide by in their contracts with ICANN org. See [Section xx - Public Interest Commitments/Registry Voluntary Commitments] for further details about PICs and RVCs.
2. **Registry Registration Dispute Resolution Procedure (RRDRP):** The RRDRP addresses circumstances in which a community-based gTLD registry operator deviates from the registration restrictions outlined in its Registry Agreement. A community-based gTLD is operated for the benefit of a clearly delineated community. See [Section xx - Community Applications] for further details about community-based gTLDs.
3. **Trademark Post-Delegation Dispute Resolution Procedure (TM-PDDRP):** The TM-PDDRP generally addresses complicity in trademark infringement on the first or second level of a gTLD. Among the three post-delegated dispute resolution procedures, only the TM-PDDRP is intended to address trademark-related issues concerning registry operators. See [Section xx - Rights Protection Mechanisms] for further details about requirements for rights protection mechanisms for all gTLDs.

For more information about the scope of procedures, the roles of all parties, and the adjudication process with respect to these post-delegation dispute resolution procedures, see the educational materials on [icann.org](https://www.icann.org).

Commented [1]: Rationale for the overall approach of developing this brief, high-level, and future-proof AGB section:

- Under Topic 33 there are only affirmation 33.1 and recommendation 33.2, which do not constitute substantive changes to these procedures;

- Per ODA analysis of SubPro Rec 33.2, future 'educational materials' (to be developed) on PICDRP and RRDRP will likely include more details about the scope, roles of parties, and adjudication process, potentially including diagrams / flowcharts. Thus, the AGB text does not intend to duplicate this effort but simply provides a placeholder to link to those future 'educational materials';

- Given that implementation details on PICs/RVCs are subject to Board determination, any substantive change to PICDRP as a result of PICs/RVCs implementation, if any, is expected to be explained in the PICs/RVCs section in AGB, and/or the future 'educational materials'. A placeholder linking to the PICs/RVCs section is provided to avoid potential duplication of information.

- Pending IRT input: Whether inclusion of TM-PDDRP in this AGB section is appropriate, given that SubPro recs only mentioned PICDRP and RRDRP and TM-PDDRP was addressed by RPM PDP Phase 1.

Commented [2]: SubPro IG 9.11: The Public Interest Commitment Dispute Resolution Process (PICDRP) and associated processes should be updated to equally apply to RVCs.

Commented [3]: Pending IRT Input re whether inclusion of this information in AGB is appropriate. SubPro Affirmation 33.1 and Rec 33.2 only mentioned PICDRP and RRDRP, and RPM PDP Phase 1 addressed TM-PDDRP.

RPM PDP Phase 1 implementation is underway, and there is one recommendation concerning TM-PDDRP, see pp.55-56:
<https://gnso.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf#page=55>

Commented [4]: SubPro Rec 33.2: For the Public Interest Commitment Dispute Resolution Procedure (PICDRP) and the Registration Restrictions Dispute Resolution Procedure (RRDRP), clearer, more detailed, and better-defined guidance on the scope of the procedure, the role of all parties, and the adjudication process must be publicly available

ODA: "...ICANN org intends to develop 'clearer, more detailed, and better-defined' educational materials on the scope of the procedures, the role of all parties, and the adjudication process. ICANN org will need to make these materials available to users of the procedures and publish them on [icann.org](https://www.icann.org)..." See: <https://www.icann.org/en/system/files/files/subpro-...> [1]

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<https://www.icann.org/en/system/files/files/subpro-oda-12dec22-en.pdf#page=176>