

The Updated Supplementary Procedures for the Independent Review Process (IRP) were submitted for public comment on Nov. 28, 2016. The comment period closed on Feb. 1, 2017, and the staff report on the public comments was issued on August 2, 2017. The public comments submitted are available here.

A number of public comments focused on Updated Supplementary Procedure #4, Time for Filing. That rule as proposed by the IRP Implementation Oversight Team (IOT) was:

4. Time for Filing

An INDEPENDENT REVIEW is commenced when CLAIMANT files a written statement of a DISPUTE. A CLAIMANT shall file a written statement of a DISPUTE with the ICDR no more than 45 days after a CLAIMANT becomes aware of the material affect of the action or inaction giving rise to the DISPUTE; provided, however, that a statement of a DISPUTE may not be filed more than twelve (12) months from the date of such action or inaction.

In order for an IRP to be deemed to have been timely filed, all fees must be paid to the ICDR within three business days (as measured by the ICDR) of the filing of the request with the ICDR.

[Footnotes 14 and 15 omitted – they are available at

<https://www.icann.org/en/system/files/files/draft-irp-supp-procedures-31oct16-en.pdf>]

On the topic of the 45-day aspect of the Time-for-Filing language, 11 of the 19 respondents commented on this portion of the draft and all 11 had issues with this proposal and either opposed it or proposed changes. The modified language now available for comment now provides for a 120-day period for filing after the claimant becomes aware of the material effect (75 days more than was suggested previously).

On the topic of the 12-month limitation to file an IRP, 13 of the 19 respondents to the public consultation commented on this with 11 having issues with this proposal and either opposed it or proposed changes. The modified language now available for comment removes any outside time limit to file an IRP. Under the prior text, a claimant would have had to have filed their IRP within one year of the action/inaction that is being challenged. Under the new text, the only timing requirement that the claimant has to meet is the 120-day requirement above, whether the challenged action/inaction happened 3 months, 3 years or 5 years prior (or more).

~~On the topic of the 45-day aspect of the Time for Filing language, 11 of the 19 respondents commented on this portion of the draft and all 11 had issues with this proposal and either opposed it or proposed changes.~~

All material and comments relating to the public consultation on the IRP held in late 2016 is archived at <https://www.icann.org/public-comments/irp-supp-procedures-2016-11-28-en>

Following its deliberations, the IRP IOT proposes amending its original Updated Supplementary Procedure #4, Time for Filing, in its entirety, to say as follows:

4. Time for Filing

An INDEPENDENT REVIEW is commenced when CLAIMANT files a written statement of a DISPUTE. A CLAIMANT shall file a written statement of a DISPUTE with the ICDR no more than 120 days after a CLAIMANT becomes aware, or ought reasonably to have been aware, of the material affect of the action or inaction giving rise to the DISPUTE.

In order for an IRP to be deemed to have been timely filed, all fees must be paid to the ICDR within three business days (as measured by the ICDR) of the filing of the request with the ICDR.