

# #23

## Proposal for URS Policy and Operational Recommendations

### IMPORTANT

- This form is used by RPM Working Group members to submit proposals for URS policy and operational recommendations. Please submit to [ariel.liang@icann.org](mailto:ariel.liang@icann.org).
- **Proposals submitted not using the required form will not be in order and will not be discussed.**
- **One individual form must contain only one proposal for one recommendation.**
- Answer to every text field is required and mandatory(\*).
- As soon as practical after receiving the submissions, staff will forward the proposals to the Working Group email list.
- The final date for submission of member proposals is **COB on Friday, 31 August 2018**. Any proposal received after that date will not be in order and will not be discussed.

### I. General Questions

#### \*1. Proponent's Full Name

If this proposal is developed by more than one WG member, please write the full names of all proponents involved

George Kirikos\_\_\_\_\_

#### \*2. What type of URS recommendation are you proposing?

Policy

Operational Fix

Other (please specify: \_\_\_\_\_)

#### \*3. What URS recommendation are you proposing?

Please be succinct as well as substantially specific and not general in nature. One proposal for one recommendation only.

[NB: Topic can be deferred to Phase 2 of our work, as it applies to both the URS and the UDRP.]

The URS and UDRP should be updated to permit both registrars and registries the ability to recover from URS and UDRP providers (e.g. WIPO, NAF, etc.) reasonable administrative and compliance costs. Should a provider not pay such costs, which can vary based on the number of domains involved in a dispute, the complaint shall be barred at that provider. If commercial credit is extended to providers, and payment is in arrears, complaints from that provider involving that registrar or registry to be suspended.

## II. Justification Statement

### **IMPORTANT**

- Must be no more than **250 words** in length for each of two sections below.
- Should state the operational or policy rationale for the proposal.
- Should cite any evidence in support of it. Such evidence may be information developed by the Sub Teams or documented in other sources.

### **\*4. What is your rationale for the proposal? (250 words max)**

At present, the URS and the UDRP policies allow providers like WIPO and NAF to charge fees for disputes, however they do not explicitly allow for recovery of administrative and compliance costs by important stakeholders, namely registrars and registries. The policies should be updated to explicitly allow such cost recovery by permitting registrars and registries to charge reasonable fees (to be determined by an Implementation Review Team, but perhaps on the order of \$50/dispute plus a variable fee of \$10/domain) to providers like WIPO and NAF.

If a dispute takes 30 minutes of administrative time, that might be consistent with a reasonable \$50/dispute charge (at a typical cost of \$100/hr for labour).

### **\*5. What evidence do you have in support of your proposal? Please detail the source of your evidence. (250 words max)**

I consulted with the 2<sup>nd</sup> largest registrar (TuCows), and reviewed the registration agreement of GoDaddy, see:

<https://mm.icann.org/pipermail/gnso-rpm-wg/2018-September/003256.html>

and learned that an average dispute generates 30-35 minutes of compliance costs. I also saw that GoDaddy has attempted to shift the burden of such compliance costs upon registrants, when it is really a cost that is directly generated through the interaction of providers (WIPO/NAF, etc.) with registrars and/or registry operators.

Also, some disputes involve multiple domain names, thus justifying a per domain variable cost within a fee schedule for registrars/registries to recover costs from providers.

### III. Pertinent Questions

- *The proposal must address the following three questions*
- *Can be no more than 250 words in length for each of two sections below.*

**\*6. Where and how has this issue been addressed (or not) by the Working Group or the Sub Teams to date? (250 words max)**

I brought the data to the attention of the PDP Working Group in a post to the mailing list at: <https://mm.icann.org/pipermail/gnso-rpm-wg/2018-September/003256.html>

This has not otherwise been explicitly addressed by the Working Group or Sub Teams. The August 31, 2018 “Clean” Super Consolidated URS Topics Table focuses on providers costs in section I (e.g. I.1), not on costs to registrars/registries. I expect that this proposal will interact with some of the expected “loser pays” proposals. As this proposal involves both the URS and UDRP, I put it on the record now, but propose it be deferred to Phase 2 work.

**\*7. Does the data collected and reviewed by the Sub Teams show a need to address this issue and develop recommendations accordingly? (250 words max)**

Not applicable, as they did not appear to collect such data from registrars and registrars regarding administrative and compliance costs.

**\*8. If not already addressed above, on the basis of what information, gathered from what source or Sub Team, is this proposal based, if any? Please provide details. (250 words max)**

Already addressed above.