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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.*
- ***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

_X__ Other (please specify: elimination of URS procedure entirely_____)

*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.

I propose that the URS be eliminated as a mandatory policy for new gTLDs, and furthermore that it not be a GNSO consensus policy mandated for legacy TLDs. The UDRP alone is sufficient, and should be focused on instead for improvement.

II. Justification Statement

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

The URS should be eliminated, as its purported benefits do not exceeds its costs. Thus, on a cost-benefit analysis, it should dropped, with focus to return to the UDRP instead, and also to deterrence.

The URS was only accepted "at gun point" by the community under the new gTLD program, due to exaggerated claims of an impending cybersquatting apocalypse if new gTLDs were introduced. The program was held hostage unless additional RPMs were added. Like many folks making predictions about new gTLDs, the proponents of additional RPMs beyond the UDRP proved to be completely wrong about huge waves of cybersquatting. Since those predictions were wrong, the policy outcomes of the past that were based on and justified by incorrect expectations should be undone.

The purported benefits of the URS flow mainly to the largest corporations (who dominate the list of complainants), who can certainly afford a UDRP. The compliance costs on registrars, registries, and registrants exceed any benefits.

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

Rebecca's research ("Complainant Analysis" tab in spreadsheet of https://mm.icann.org/pipermail/gnso-rpm-wg/2018-May/003037.html) shows top 21 complainants accounted for 314 of 787 non-withdrawn complaints, demonstrating that benefits flow to a small group of large multinational companies who can afford a UDRP (as does the full complainant list for all complaints).

Marginal cost of a UDRP relative to a URS is relatively small (a few hundred dollars). Given roughly 200 cases per year, paying $500 less (for a URS, instead of a UDRP), is a mere $100,000/year total saved by all these large multinationals combined, which is ultimately a rounding error.

Looking at NAF (via domains.adrforum.com), typical time to complete a "default" UDRP (majority of URS cases are defaults) is quite fast (e.g. 27 days for clips4sale.com), only marginally slower than a URS (e.g. 16 days for geeks-quad.online). Thus, the speed benefit of a URS vs. a UDRP is small. One can shutdown abusive sites even faster using Section 3.18 of the 2013 RAA for registrars, complaints to ISPs, and by using blocking mechanisms such as Google's Safebrowsing https://safebrowsing.google.com/

Compliance costs for registrars and registries can be much higher, though, as noted by Jonathan Frost within the recent thread at https://mm.icann.org/pipermail/gnso-rpm-wg/2018-September/003270.html There are also new burdens on registrants having to respond to URS complaints faster than a UDRP (less due process). There's also the burden of supporting (and reviewing!) 2 separate DRPs, rather than a single DRP.

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)

This is an overarching question, that hasn't truly been addressed by the sub teams or the Working Group to date. The purported benefits have been greatly exaggerated, and the real compliance costs for registrars, registries and registrants far exceed the benefits.

Registrants themselves weren't surveyed, and it appears that registrars/registries were never surveyed as to their compliance costs either, for supporting multiple DRPs.

Sub teams also didn't consider the marginal benefit of the URS, relative to only the UDRP.

*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)

The Sub Teams really focused only on providers and TM holders, and not the other stakeholders. Thus, to the extent that the Sub Teams collected data, it did not collect data from all stakeholders to be in a proper position to look at overall costs and benefits, especially compared to a UDRP-only alternative. The evidence from Jonathan Frost, for example, is the tip of the iceberg.

*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.