

Attendance: (33 members)

Brian Beckham	Lori Schulman
Brian Winterfeldt	Martin Silva
Christine Farley	Maxim Alzoba
Chris Thomas	Michael Graham
Cyntia King	Michael Karanicolas
David Maher	Monica Mitchell
Gary Saposnik	Paul McGrady
George Kirikos	Phil Marano
Gerald Levine	Philip Corwin
Griffin Barnett	Renee Fossen
Jason Schaeffer	Roger Carney
Jay Chapman	Scott Austin
Kathy Kleiman	Steve Levy
Kristine Dorrain	Susan Payne
Lillian Fosteris	Zak Muscovitch

Audio only:

Claudio DiGangi
Mitch Stoltz
Rebecca Tushnet

Apologies:

Marie Pattullo
Sara Bockey

Staff:

Mary Wong
Ariel Liang
Julie Hedlund
Berry Cobb
Dennis Chang
Antonietta Mangiacotti
Michelle DeSmyter

AC chat:

Michelle DeSmyter: Dear all, welcome to the Review of all Rights Protection Mechanisms (RPMs) in all gTLDs PDP Working Group call on Wednesday, 03 October 2018 at 17:00 UTC.

Michelle DeSmyter:Agenda wiki page: <https://community.icann.org/x/pwqrBQ>

George Kirikos:Hi folks.

George Kirikos:It's Mean Girls Day, so I was going to "wear pink" ("on Wednesday's we wear pink"), but this pink font is awful.

Michelle DeSmyter:Hi George, welcome!!

Michelle DeSmyter:;)

George Kirikos:Hi Michelle. Sorry about your Cubs last night. :-)

George Kirikos:Was that audio noise?

George Kirikos:(or just for me?)

George Kirikos:All the proposals are at: <https://community.icann.org/display/RARPMRIAGPWG/URS+Proposals> for those who want to read them on a larger browser window, etc.

George Kirikos:In 1 hour and 17 minutes, there will be that Presidential Text Alert, for those in the USA. (2:18 pm Eastern time).

Cyntia King:Gah!

Kathy Kleiman:Hi All!

Julie Hedlund:Proposal #22 from Brian Winterfeldt's Team

Griffin Barnett:John McElwaine will be presenting this one

Philip Corwin:Can we please unlock the document? Thanks

George Kirikos:Even outside the USA, though, it's unusual to get full solicitor-client costs.

Michael Karanicolas:These systems are all designed for disempowered users. Here the balance of powers goes the other way.

George Kirikos:+1 Michael. There is much greater due process in those systems, unlike the URS/UDRP.

Julie Hedlund:@all: note that the document is unsynced.

Susan Payne (Valideus for SCA):Michael what do you mean by "these systems"?

Kristine Dorrain (Amazon Registry):Hi all, sorry I'm late.

Michael Karanicolas:@Susan - the systems John mentioned - for civil rights complaints, ADA complaints, etc.

Kristine Dorrain (Amazon Registry):did John address a mechanism for how the complainant should collect?

Michael Graham:I support 22 being presented for Public Comment.

Susan Payne:If were going to be sticklers here shouldn't Phil get 2 min clock for his "personal view"

Michael Graham:@Phil -- Agree with your personal comments regarding this.

George Kirikos:<https://mm.icann.org/pipermail/gnso-rpm-wg/2018-October/003365.html>

Philip Corwin:@Michael G - thanks

Susan Payne:@Michael K - John mentioned a number of different systems and it doesnt seem to me that they were all about disempowered users

Griffin Barnett:(1) gaming should not be a basis for rejecting a proposal out of hand; (2) the fact that other systems are not specific to trademark disputes isn't really super relevant to the concept of "loser pays" being potentially useful or applicable

Martín Silva:we already have local courts to go for damages, this is wayyyy overreach

Griffin Barnett:As John mentioned, even under the American rule, there are exceptions, notably in the context of willfulness or bad faith, and bad faith is of course a prerequisite for prevailing in a URS

George Kirikos:It would be trying to do too much. I'm sympathetic on loser pays, but this isn't the way.

Griffin Barnett:George, then what is the way?

Maxim Alzoba(FAITID):Hello All

Michael Karanicolas:I think George's point about further disincentivizing responses is key. The default rates are already very high - if respondents need to pay to respond, none will bother to show up.

George Kirikos:I'd much rather get a fund together to fund lawsuits against the bad guys, not using the URS/UDRP to try to do it.

Michael Graham:@George K -- I think the fear of registrant impersonation is a red herring..

Christine FARLEY:I'm concerned about a policy of propelling proposals to public comment because a trade association is behind them. If that were the case, it should have been announced in advance of this discussion.

George Kirikos:@Griffin: use lawsuits to go after the bad guys, like Verizon did with iREIT, OnlineNIC, etc.

Griffin Barnett:@Zak, yeah presumably loser pays would mean the loser pays, even if the loser is the complainant

Michael Graham:@Mitch -- I do think, as John pointed out, agreeing with a general premise of "User Pays" is a first step and that subsequent discussion on how to design/determine the actual fees to be paid would be required.

George Kirikos:Also, there'd need to be a blacklist maintained by ICANN, that registrars would need to check against for the security deposits.

Griffin Barnett:@George, the whole point of having these RPMs is to try and avoid the need for more costly litigation

George Kirikos:What if the blacklisted person is "John Smith"?!?!??

George Kirikos:i.e. too much collateral damage, identity theft, etc.

Griffin Barnett:I understand the RPMs cannot be a panacea for all issues/cases, but I think we can reasonably consider some enhancements

Maxim Alzoba(FAITID):@George, people can change ID names, so I am not sure it would work at all

Philip Corwin:@Christine--it's not a policy, it's my personal view

George Kirikos:"a provision requiring registrants who have met a set threshold for habitual cybersquatting could be required to deposit funds into an escrow account with each new domain registration or"

Griffin Barnett:Were we talking about blacklisting? I think you could tie to something more unique like an email address or credit card number

Mary Wong:Hi all, reminder: at this stage, the WG deliberations are about whether, for each of ALL the individual proposals submitted, there is adequate support to place it/them in the Initial Report for public comment, whether as a preliminary recommendation, open issue, or other item.

Griffin Barnett:for the purpose of collecting on any payments owing

Zak Muscovitch:I may want to comment further after I hear the answers from John.

George Kirikos:@Maxim: exactly. And it costs under USD \$20 to crete a brand new UK corp.

George Kirikos:@Griffin: the deposit for each new registration is akin to being on a blacklist.

George Kirikos:(i.e. a variation from the same idea made in proposal #15 by the same group)

Mitch Stoltz:300 euros is not a small amount for a vast proportion of registrants

Kathy Kleiman:I think this proposal radically changes the URS from its original model and design.

Maxim Alzoba(FAITID):+1 Mitch, in developing world especially

Jason Schaeffer:+1 Kathy.

Christine FARLEY:+1 Kathy

George Kirikos:Could be workable if there was WHOIS verification, but can't see how it could work otherwise. I'd *want* loser pays personally, since I tend to win! But, too many real-world problems that would need to be solved first.

Martín Silva:+1 Michael and kathy

Susan Payne:@Mitch - John was giving an example.I don't undestand him to be fixed on the amount specifically

Kathy Kleiman:Tx John for the answers.

George Kirikos:I put loser pays into my own contracts, where both parties are verified, etc. Can't see how it could work for domains, without registrant verification.

Maxim Alzoba(FAITID):the question is , pays whom? would be US company happy to recieve payment from some country they are prohibited to conduct business with?

George Kirikos:+1 Zak. This isn't detailed enough to be commented on.

Griffin Barnett:I think we could probably figure out a mechanism for making loser pays work that doesn't rely on a fee submitted to file a response ... im willing to think about this

a bit more, but I believe loser pays in the context of URS is worth considering, and obtaining public comment

Mitch Stoltz:+1 Zak

Jay Chapman:+1 Zak

Michael Graham:@Zak -- The fees to be escrowed, etc. should be reasonable and should be set. Perhaps a distinction could be considered between DNS registered/used for Personal use and those registered for Commercial use, etc.

George Kirikos:@Griffin: the only way I could see it working is if you charge the REGISTAR as the "loser". That would then cause registrars to do a risk scoring for each domain they register, as well as their clients.

Julie Hedlund:@all: The chat is always captured.

Jay Chapman:It appears there is substantial opposition to this being submitted

George Kirikos:But, too complex, I think, to be feasible.

Julie Hedlund:And posted on the wiki

George Kirikos:Zak is next.

Michael Karanicolas:That's... not what I was asking. Please record the points made in chat under the notes.

Susan Payne:@Zak, but there is also substantial support

Julie Hedlund:Next is 26 from Zak Muscovitch

Michael Karanicolas:Would appreciate some confirmation from Staff on this being done?

Philip Corwin:@Maxim--payment in Bitcoin? ;-)

Mitch Stoltz:@Susan I really don't see how this could be considered substantial support

Maxim Alzoba(FAITID):@Philip, hopefully not havala

Julie Hedlund:@Michael: Staff confirmed above. But again, confirming that the chat room is always captured and it posted to the wiki for each meeting.

Brian Beckham - WIPO:@Mitch, that is not the standard for inclusion for the Initial Report - perhaps Staff can remind us at AOB

Julie Hedlund:Also, the wiki will be consulted when the deliberations are recorded in the Initial Report.

Philip Corwin:We don't do that Michjael. SDtaff is busy enough recording oral comments. The full chat is preserved and distributed

Griffin Barnett:Let's not forget that the propoal just discussed (#22) and the others submitted by the same group, were submitted by a group of 10 individuals

Susan Payne:@Mitch, well a large number of people supported this submission, and a number have made comments in the chat which demonstrate support.Are you suggesting we ought to have stuffed the mike rather than allowing you all to make your comments?

George Kirikos:@Griffin: if 10 individuals submitted it, many of the problems the rest of us identified should have already been reflected in the proposal (but didn't appear to be).

Griffin Barnett:A similar proposal re loser pays was also submitted by WG member Marie pattullo on behalf of AIM as well

George Kirikos:I support the concept of "loser pays", and was sympathetic...when you have *allies* on the issue against it, it's worth noting.

Griffin Barnett:@George, the whole point of this discussion process is to solicit feedback from others in the WG.... we can't be asked to anticipate all feedback and potential issues in the propoal itself, especially where we were asked a specific set of questions and limited in each repsonse to 250 words

Mitch Stoltz:@Griffin @Susan I'm fairly new to the process, but I do know that head-counting is not the measure of support

George Kirikos:@Griffin: no word limit for the proposal itself (just the rationale and other fields).

Griffin Barnett:@Mitch, not for identifying consensus necessarily, but we are not talking about that right now

Brian Beckham - WIPO:@Mitch, nor is it the measure for non-inclusion in the Initial Report

Brian Beckham - WIPO:Again, Staff can remind us of the agreed approach at AOB

Kristine Dorrain (Amazon Registry):I won't object to the proposal, but I think you should ask the Provider how much cost (in terms of technology and manpower) to recreate information that's already publicly available. This proposal only makes it more convenient to get available information and it's going to cost the parties more in fees.

Michael Karanicolas:The harm is in the proposal - a lack of information on this issue

Griffin Barnett:@George, we were asked to provide a succinct summary of the proposal

Mary Wong:All, before this call wraps up, we'll reiterate the procedural approach that was shared by the co-chairs with the group, as to how the decision as to which proposals will be included in the Initial Report, and in what form, will be made.

Brian Beckham - WIPO:Thanks @Kristine, we have certainly encouraged the WG to consider providers views on all such aspects (e.g, XML that George just mentioned)

Mitch Stoltz:Re comments on #22, it's now very unclear just what the standard for inclusion in the initial report is, and whether that standard is consistent with how the public will perceive that report.

Michael Karanicolas:@Kristine I think that's reasonable to look into... but I can't imagine it would be too costly.

Kristine Dorrain (Amazon Registry):Thanks @Brian. I know people here don't care about what will be easier or better for Providers. But they need to take into account that each additional requirements change that Providers have implement will end up cost the parties.

Griffin Barnett:I didn't understand the ask to be to fully consider all aspects,possible feedback, implemetnation details, etc. as part of this process up front

Griffin Barnett:Not to say that we didn't try to anticipate certain such issues

Mary Wong:@Mitch, please see the staff comment above re reiteration of the agreed procedural approach at the end of this call.

George Kirikos:The NAF search doesn't allow one to "link" to a search.

Michael Karanicolas:@Kristine - especially if this is bundled with the other proposals for enhanced disclosure - all done together.

Michael Karanicolas:I think Paul's entire framing in terms of "harms" is incorrect. Transparency should be an overarching goal for this system. It's self explanatory as to why a suggestion that moves us in that direction would be worth considering.

Christine FARLEY:Hard to argue again transparency. URS is new. Let's shed some more light on it.

Julie Hedlund:Next: #27 -- Zak Musovitch.

George Kirikos:#27 should be very non-controversial.

George Kirikos:Sad that it even needed to be proposed.

Mitch Stoltz:Re #27, I note a parallel to the importance placed on statements of interest from working group members.

Griffin Barnett:So this proposal was a bit too vague, without some further clarifications and feedback...

Griffin Barnett:;)

Martín Silva:seems a very reasonable proposal

Cyntia King:Am I the only person who doesn't update their CV annually?

Kristine Dorrain (Amazon Registry):Nope.

Susan Payne:me neither

Kristine Dorrain (Amazon Registry):I guess others on this list have unlimited free time.

Martín Silva:I do!

Susan Payne:the stuff that warrants updating it doesn't happen that often in my view

Martín Silva:free time?

Susan Payne:some people like CV's the length of a book I guess.

Griffin Barnett:Perhaps it can be just providing an opportunity for the panelists to update, or confirm it remains up to date

Kristine Dorrain (Amazon Registry):right, Susan? LOL. My last job was 10 years. Didn't have anything to add.

Maxim Alzoba(FAITID):it depends on the position qualifications

Maxim Alzoba(FAITID):required ones

Kristine Dorrain (Amazon Registry):@Griffin, Renee just said she asks annually.

Julie Hedlund:Next: George Kirikos,
#29: <https://community.icann.org/download/attachments/93126760/URS-Proposal-27.pdf?api=v2>George Kirikos (no. 29):

Martín Silva:annually you can say, I don't have changes to add

Susan Payne:I think this is an area where an understanding of the cost to Providers would be very important- I have no idea if this is costly/burdensome or not!

Kristine Dorrain (Amazon Registry):+1 Susan.

Griffin Barnett:Agreed

Griffin Barnett:I'd support the idea in principle, but would want to hear about the cost impact too

Griffin Barnett:(which I think is a consideration for all the proposals)

Kristine Dorrain (Amazon Registry):+1 Renee. This is another convenience proposal.

Kathy Kleiman:good question

Kristine Dorrain (Amazon Registry):The data is there. If the community wants to get at it easier, the community should pay. Assuming you have a provider willing to even offer the service after overhauling their entire processes

Maxim Alzoba(FAITID):to say more - from operational perspective - at least three organizations will have to agree about the procedures/ exact format e.t.c - it is going to be a challenge (i.e. nightmare)

Kristine Dorrain (Amazon Registry):@Michael: This is NOT a transparency issue. The decisions are transparent and public.

Kristine Dorrain (Amazon Registry):This proposal just shifts the costs.

Kristine Dorrain (Amazon Registry):Then the people that want it more "accessible" should absorb the cost.

Kristine Dorrain (Amazon Registry):+1 Maxim

Christine FARLEY:I understand the argument that this might add a cost to the providers, but in order to evaluate the costs versus the benefits, it would be helpful to have a better idea of just what the costs may be. Can we get something closer to an estimate?

Michael Karanicolas:It's misleading to point to "a small group of people" as being the ones who benefit. If there's better research into how the system works, the system benefits.

Maxim Alzoba(FAITID):before making something machine readable, it should be designed from data perspective to prevent machine readable chaotic info on the output

Michael Karanicolas:Staff - Please include the substance of my comment in the notes - thanks.

Cyntia King:Is it possible for ICANN to have a repository for this info, rather than the Providers? It may be easier to have a data dump to an ICANN location in their singlee format.

Julie Hedlund:@Michael: The chat will be captured and the transcript will capture your substance. The notes are for quick reference and are not meant to replace the chat, transcript, or recording.

Michael Karanicolas:Well - the reference at the moment is misleading.

Michael Karanicolas:So long as that's included in the record as well - I guess we're all good.

Kristine Dorrain (Amazon Registry):I'm going to keep sayig it because it's true for every single proposal (not just this one). FOLLOW THE MONEY. Ask yourself who pays. If you think it's "someone else", you're wrong. Increases to filing fees affect us all.

Julie Hedlund:@Michael: It will be concluded in the record and any deliberations in the Initial Report will be taken from the transcript, recording, and chat -- not the notes.

Michael Karanicolas:@Cyntia - I think that might be looking into. ICANN is investing a lot in open data at the moment. They could potentially help with this work.

Martín Silva:@cynthia, I can live with that idea

Cyntia King:@Michael Karanicolas: It's always a cost-benefit analysis. If we had unlimited money/work capacity we could capture/update/maanage every piece of data. But relistically, there's associated costs that someone has to pay. In this case, not the benefitting party.

Martín Silva:it gives all parties the benefits

Mary Wong:All, note that ICANN's Open Data Initiative is currently scoped to cover data held by ICANN, not (in this case) the providers.

Martín Silva:that can be changed

Susan Payne:As I said,if it does go into the report we need to be very clear what the impact of this is in terms of cost and other burden so that those who comment on the initial report appreciate what these are

Zak Muscovitch:+1 Mitch,

Cyntia King:If ICANN wants to capture this data for the purpose of improving services, they should pay the lions share of costs. The Providers will end footing some costs to keep the dta current.

Brian Beckham - WIPO:@Mitch, as I said, it is not just about costs, it is a disruption, and there is far too much armchair quarterbacking going on here

Susan Payne:+1Brian, that is my concern about this whole exercise

Cynthia King:Point taken @Brian Beckham

John McElwaine:We have heard criticism of decisions being in a standard form or incomplete. Can you address how a decision is fit into a form seeing as they have an almost limitless set of facts. that might go into the decision?

Mitch Stoltz:@Brian Calling for independent estimates of the one-time cost is not armchair quarterbacking. We need the considered opinion of groups without a direct financial interest.

John McElwaine:@George thanks for that explanation

Brian Beckham - WIPO:With all due respect Mitch, only three people on this call have experience running provider operations, so if you want to add all sorts of bells and whistles to this expedited process, I suspect you may have providers opting out (but maybe that is what some people want).

Renee Fossen (Forum):An independent estimate would never be able to capture the technology each individual provider uses to administer the URS.

Michael Karanicolas:With all due respect @Brian - I have more experience with open data transitions than anyone else on this call.

Ariel Liang:Time is up

Susan Payne:whose budget George?

Michael Karanicolas:I think it's worth looking more specifically at the costs before we jump to conclusions that it's unworkable

George Kirikos:@Susan: ICANN, via their Open Data Initiative, should pay.

Julie Hedlund:Next: #28 -- Zak Muscovitch

Griffin Barnett:We should look at costs as part of all the proposals, in addition to public comment on any other issues related to the proposals

Griffin Barnett:And we should also not jump to conclusions about the unworkability of any of the proposals

Mitch Stoltz:Everyone with a stake in the operation of URS benefits from the ability of researchers, attorneys, and policymakers of all stripes to easily access and search decisions far into the future.

Martín Silva:yes

Martín Silva:absolutely

Cynthia King:Again, we have to balance the burden of any proposed new process w/ the benefits. Any researcher can tell you that research/knowledge can be infinite. We cannot just go down the rabbit hole requiring processes/procedures that may provide info.

Mitch Stoltz:@Cynthia which is why we need independent assessment of the alleged burden

George Kirikos:@cynthia: many of the elements/fields of the data are standard (registrar, registrant, TLD, domain, TM, date of complaint, date of TM, complainant, etc.). Those can be entered easily by the provider, or the panelist, etc. And can be outsourced for the historical data, so it's done *once* for all researchers and the public, rather than having to reparse it each time someone wants to study the URS/UDRP.

George Kirikos:Data entry is cheap these days, e.g. Mechanical Turk, etc.

George Kirikos:Or under \$5/yr in the Phillipines, etc.

George Kirikos:\$5/hour, rather.

Cynthia King:@Mitch: I agree w/ determining actual cost. The other side of that coin is determining probable benefits., then deciding whether the benefits out weigh costs.

Griffin Barnett:That's what I've been saying about all of the policy proposals....

George Kirikos:I agree with the cost/benefit approach.

Brian Beckham - WIPO:As Renee said, aside from costs, and operational disruption, this could impact decision substantive flow (i.e., undermining the ability for jurisprudence to emerge)

George Kirikos:I think the costs aren't as high as suggested. The *workflow* of panelists should change, so that they're not submitting MS Word in the first place, but instead their primary means of sending back input is via a standard form, etc., so that all the data is directly entered into a Database (which can then be easily transformed into XML< etc.).

Zak Muscovitch:Many thanks for the explanation, Mary

Cyntia King:@George: My real concern is that we come together after getting the cost/benefit for each, separate proposal, then sort through the cumulative cost/benefit. I'm afraid that's where we might hit a wall.

Cyntia King:Presidential Test Text

George Kirikos:POTUS Alert.

Susan Payne:what is that for????

Michael Karanicolas:@Susan - that was Donald Trump texting all the americans on the call

Mitch Stoltz:It's a test of an emergency communications system

Brian Beckham - WIPO:That's just it @Cynthia, if you add XML, language rules, provider policies, mediation possibilities, etc., you will have a frankenstein URS (and yet still demand it be run for a few hundred bucks)

Susan Payne:what an alert that unfortunately you have a president?

Kristine Dorrain (Amazon Registry):@Zak: We know from URS decisions that panelists do have to declare/swear that they don't have a conflict. Are you asking for the Providers to write up a specific policy? Are you contending that somehow the public gets to vote on what should be included in that policy? Because even the contracted parties do not have to have ICANN/community approval for their interanl policies. This seems like a very slippery slope to ask ICANN to get involved in individual internal policies.

Renee Fossen (Forum):I took my hand down. Phil covered what I was going to say.

Kristine Dorrain (Amazon Registry):@ Susan...we don't need alert. We

Kristine Dorrain (Amazon Registry):rWe are painfully aware....

George Kirikos:There'd likely be an IRT after both Phase 1 *and* phase 2 are done? Or is there an IRT after Phase 1, and a separate IRT after Phase 2?

Renee Fossen (Forum):As the proposed rule is worded, I don't know how a Provider can "ensure."

Michael Karanicolas:Not all examiners are lawyers.

Susan Payne:+1 Claudio - we have had this same debate multiple times

Mary Wong:@George, that will likely depend on what the Phase One recs are, e.g. are they standalone or might they depend on what happens in Phase Two.

George Kirikos:@Mary: it appears likely, given many of us are putting into Phase 1 what should have gone into Phase 2, that they'll interact.

George Kirikos:Claudio can't see the clock.

Ariel Liang:time is up

Michael Karanicolas:@Claudio - Can you clarify this challenge that attorneys might face re: jurisdictional obligations? I don't follow.

George Kirikos:(since he's on voice only)

George Kirikos:@MichaelK: Claudio isn't in chat.

Michael Karanicolas:I really don't follow the challenge of conflicting jurisdictional rules. You just follow whichever is stricter.

George Kirikos:Or former law partner, or went to school with that panelist...

Kristine Dorrain (Amazon Registry):@Zak, it sounds like you are just frustrated that you don't know what the policies are. There are policies....

Griffin Barnett:Each provider does have conflicts of interest policies in place

Griffin Barnett:Ah yes, Kristine has basically made the same note

Michael Graham:@Zak: Actually, to the extent Attorneys are representing clients in URS/UDRP actions they remain governed by Professional Conflicts of Interest Guides -- as they are in court, and any transactins.

Michael Graham:*transactions

Julie Hedlund:Next: #30 from George Kirikos. <https://community.icann.org/download/attachments/93126760/URS-Proposal-30.pdf?api=v2>

Zak Muscovitch:@Kristine, please let us know what these policies are, as there are none public that I am aware of.

Griffin Barnett:Not a fan of mandatory mediation in these proceedings

Griffin Barnett:Draws them out, adds cost, and in most cases complainants already attempted to resolve it prior to bringing the dispute but it was not

Griffin Barnett:(i.e. through a c&d letter etc)

Kristine Dorrain (Amazon Registry):@Zak, you're right. They're not necessarily public. The panelists in every URS (and UDRP) decision declare they're conflict-free.. My point is your ask is that the providers publish their policies. And it sounds like your proposal is asking for the community to have the right to weigh in on what those policies should be. There is no precedent for that.

Griffin Barnett:(typically bc of no response from the registrant)

Michael Graham:Required mediation is a costly, rarely effective means of resolution as shown by California's imposition of mediation requirements. Instead, I would suggest that the parties be required to consider and acknowledge whether they agree with or will not agree to mediation. If either party will not agree, then mediation should not be required.

Kristine Dorrain (Amazon Registry):Parties often settle on their own, without incurring any mediation costs (again, WHO PAYS)

Griffin Barnett:George seems to be identifying some systems where mandatory mediation takes place; seems a similar approach to our identification of some systems where loser pays takes place

Michael Graham:@Phil -- Agree entirely.

Griffin Barnett:@Kristine - agreed, parties remain free to try and settle during the pendency of a UDRP, and I think a URS too

Griffin Barnett:Doesn't seem there is a need for a mandatory process that involves another third party

Griffin Barnett:Perhaps there could be a voluntary process but certainly don't see good reasons for mandatory

Griffin Barnett:(not necessarily in favor of voluntary mediation option either I should say...just doesn't seem necessary in this context)

Kristine Dorrain (Amazon Registry):@ George, would the complainant have to pay a mandatory mediation fee (in addition to URS fee) up front? If Respondent doesn't show up to the mediation (they don't show up in 85+% of cases), the mediator still needs to be paid for calendaring/blocking the time.

Zak Muscovitch:@Kristine, I have never heard of a secret Conflict of Interest Policy.

Zak Muscovitch:heard*

Susan Payne:+Steve - couldn't agree more

Kristine Dorrain (Amazon Registry):@Zak...all businesses have internal policies.

Julie Hedlund:Renee Fossum

Michael Karanicolas:@Kristine - you don't see any issue with the conflict policies being unavailable to the users of the system?

Julie Hedlund:Fossen

Kristine Dorrain (Amazon Registry):And mandatory mediation to URS makes it LESS EXPEDITED than UDRP (it was close to start with)

Griffin Barnett:@Zak - see, e.g., publicly-available Forum Supplemental URS Rules, in particular Rule 10: https://urldefense.proofpoint.com/v2/url?u=http-3A_www.adrforum.com_resources_URS_URS-2520Supplemental-2520Rules.pdf&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl415cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWG1BLwwwwebFBfjrsjWv9&m=hIBiQ6CFihUGbWQDJ-iaa6YArQ0EpED235iixv_tz1A&s=j0Sk6ryy05d8r2u3oCYDIOMV8NPcNNyOgMZW_qh2kXg&e=

Griffin Barnett:(discussing impartiality and independence of examiners)

Cyntia King:I'm absolutely opposed to mandatory mediation. In my experience, any party can request this as another means to delay a final determination.

Michael Graham:@George K -- Would you consider revising to put for Public Comment the proposal of providing EITHER mandatory or voluntary Mediation upon agreement of both parties -- Response to which must be filed within 5 days?

John McElwaine:@George - That concept is interesting.

Griffin Barnett:Mediation makes sense in the context of a litigation, but not URS (or UDRP for that matter)

Kathy Kleiman:@Michael G: how would voluntary Mediation work?

Kathy Kleiman:@John M: I think this is interesting too. How best to pursue more info?

Kristine Dorrain (Amazon Registry):@George....people that aren't planning to show up to the dispute at all aren't going to mediate either. You can't actually compel attendance.

Michael Graham:@Kathy -- The parties are advised of the possibility and given the opportunity to opt in. Mandatory Mediation is RARELY effective -- and would nuke the URS.

Jason Schaeffer: Adds unnecessary expense, delay to a process that is meant to be low cost and efficient. Parties are always free to settle. With such a high default rate this does not seem necessary.

Griffin Barnett: George the logic on mandatory mediation vs. mandatory URS/UDRP doesn't really follow

John McElwaine: @George - would we be able to get the registrant's true identity at the mediation stage?

Michael Graham: @Kristine -- Exactly right.

Susan Payne: @Jason - agree

George Kirikos: @JohnW: sure, I would hope that would be part of an implementation.

Griffin Barnett: @Jason - agreed, basically same points I raised above :)

Julie Hedlund: Next: #31 David McCauley: David McAuley (no. 31): <https://community.icann.org/download/attachments/93126760/URS-Proposal-31.pdf?api=v2>

George Kirikos: (sorry if I missed any questions in chat --- will read the transcripts later)

Susan Payne: so, it seems to me that there was substantial opposition to this proposal. not sure that there was even minimal support

Susan Payne: Mandatory Mediation to be clear

Cyntia King: @Jason Schaeffer: Agree

Kristine Dorrain (Amazon Registry): +1 Jason and Susan

Lori Schulman: Mandatory Mediation makes sense for full blown litigation but I don't think for a rapid suspension process.

Lori Schulman: Agree with Susan. I would not support publication.

Lori Schulman: The policy is meant to be used by TM holders.

Lori Schulman: I meant, "meant"

Michael Graham: @Zak -- #31 -- Agree the issue whether URS should be adopted as Consensus policy for Legacy Domains should be presented for Public Comment.

Maxim Alzoba(FAITID):also no info on the Registrant is there, so there will be a need for a fork in the text (to accomodate this difference)

Michael Graham:Sorry -- that @Zak should have been @David. My bad.

Griffin Barnett:Support putting this proposal for public comment

Cyntia King:I don't think mediation should be mandatory. In my experience, the parties in many cases are not willing/able to come to an agreement. They shouldn't be forced to engage in (and pay for) a process they know is futile.

George Kirikos:I had a separate proposal for registrars/registries to recover URS-related costs.

Kristine Dorrain (Amazon Registry):Agree that it should be put out for public comment, but I do see Zak's point that it's a chicken-egg scenario....what version of URS gets put out for public comment? Perhaps we can give some thought to how to structure it? Perhaps the initial report puts out the idea and gets input on that, but the final report re-calls for comments on this.

Renee Fossen (Forum):+1 Kristine

Susan Payne:@Kristine, that seems like a sensible suggestion to address the valid point Zak made

Griffin Barnett:I would say the use case for applying URS to legacy TLDs is actually stronger than in new gTLDs, because the majority of the kind of abuse you'd want to quickly stop through a URS is still taking place in .COM (

Jay Chapman:+1 Michael and Zak

Martin Silva:+1 on Michael

Jason Schaeffer:+1 Michael

Griffin Barnett:+1 Kristine, seems reasonable to me

Cyntia King:Given that the URS is still relatively new & rarely-used, I'd like to see the public response.

Maxim Alzoba(FAITID):initial number of cases might be quite high, I wonder how will it affect other TLD's cases

Brian Beckham - WIPO:The difficulty in asking "which version" of the URS is put out for comment / would apply to legacy TLDs precisely underscores why we suggested reviewing the URS and UDRP in tandem

Scott Austin:I support this proposal 22 being presented for Public Comment

Kristine Dorrain (Amazon Registry):@Brian, well, there is that....

George Kirikos:@Scott: this is proposal #31 (#22 was loser pays, presented earlier).

Brian Beckham - WIPO:@David, the costs question may stem from the fact that Nominet subsidizes aspects of its ADR scheme - so if certain add-ons are agreed, that question might land at CPH's door

Scott Austin:I support this proposal #31 and #22 for presentation for public comment

Georges Nahitchevansky:I support proposal #31 for public comment

Zak Muscovitch:Many thanks Phil and David.

George Kirikos:Ok, first next week.

Kathy Kleiman:Tx Phil -- good meeting!

Zak Muscovitch:Many thanks, All.

George Kirikos:Do we have to present the merged proposals again?

George Kirikos:(i.e. Zak and I merged our proposals on language)

Kristine Dorrain (Amazon Registry):Isn't George's next proposal essentially the counterpoint to #31?

George Kirikos:Others were supposed to perhaps merge theirs.

George Kirikos:@Kristine: yes, although with different rationale, obviously.

Kathy Kleiman:We have two meetings planned for next week.

George Kirikos:This Firday?

George Kirikos:Or was it *next* Friday?

Mary Wong:Clarifying - next friday 12 Oct

Griffin Barnett:I thought we had one next wed and next fri?

Griffin Barnett:right

Julie Hedlund:Call next Wednesday and Friday 12 Oct

George Kirikos:2 calls next week. No more this week.

George Kirikos:Might want to clarify that for those on voice only.

Kathy Kleiman:Have we announced the meeting times in Barcelona?

Kathy Kleiman:Question for Staff...

George Kirikos:Weren't folks on the mailing list supposed to be consulted, too?

Mary Wong:@Kathy, staff typically sends out an email closer to the meeting, noting the session times, location and remote participation details.

Julie Hedlund:@Kathy: Staff will post once the Co-Chairs have determined the agendas for the calls.

Kathy Kleiman:@Julie, is our first meeting on Monday at ICANN?

Julie Hedlund:But the schedule has been published as of Monday, 01 October.

George Kirikos:I thought we were going to have a Doodle poll or Survey Monkey, or ?

Kathy Kleiman:We should be able to wrap it up!

Brian Beckham - WIPO:@George, we agreed to avoid polls for proposal inclusion in the IR

Mary Wong:Link to ICANN63 schedule: https://urldefense.proofpoint.com/v2/url?u=https-3A_63.schedule.icann.org_&d=DwIFaQ&c=FmY1u3PjP6wrcrwl3mSVzgfkBPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWGIBLwwwFhFBfjrsjWv9&m=hIBiQ6CFihUGbWQDJ-iaa6YArQ0EpED235iixv_tz1A&s=9gXrjgtLoQL9SUHgWVUr2NYHsgqE2Ms0P4_ck6UzPSY&e
=

Zak Muscovitch:Thank you for chairing, Phil. Agree re tone of the call. Thanks to all for that.

Brian Beckham - WIPO:nothing from me

Martin Silva:bye all!

Susan Payne:you're surely not suggesting polling George. That way leads to bringing a PDP to a halt

Michelle DeSmyter:unsynced now

Griffin Barnett:"if deemed appropriate"

Julie Hedlund:@George: Only if there is doubt about level of support.

George Kirikos:Oh, ok. It seemed everythign had neough support.

George Kirikos:*enough

Cyntia King:I agree w/ George about having a poll regarding the proposals - some have merged, some are competing & some I'm still thinking over.

Lori Schulman:I think that the language is flexible.

George Kirikos:Right, my thoughts too.

Lori Schulman:But agree that we should see merged proposals before anything is published.

Susan Payne:@George - I don'tthink that is what Phil said. He said there genmerally seemed to be little doubt as to level of support. Not the same thing.

Mary Wong:The poll is an option

George Kirikos:Because, I don't think folks on the mailing list know that they should be expressing support, if there wasn't enough support.

Maxim Alzoba(FAITID):bye all

George Kirikos:Bye folks.

Lori Schulman:Thank you to the chairs and staff

Lori Schulman:for rowing the heavy oars.

Griffin Barnett:Thanks all