**IRTP Part D - Working Group Discussions on Charter Questions C and D**

**Charter Question c)**

*Whether dispute options for registrants should be developed and implemented as part of the policy (registrants currently depend on registrars to initiate a dispute on their behalf);*

**WG Observation/Discussion:**

The Working Group agrees in principle that there should be a mechanism for RDNH to initiate a TDRP process. However, due to the possibility of gaming, there should be appropriate mechanisms in place to assure that the power to launch TDRPs is not abused by RDNH or others.

The first, and most important, step should be to assure that the RDNH used to be the legitimate registered domain name holder and for him/her to build a substantial record, forming the basis of a RDNH-launched TDRP.

The Working Group foresees the following steps as a basic principle:

* + - Step 1--some sort of clearance at Registrar, including RDNH authentication
    - Step 2--some sort of clearance at Registry
    - Step 3--some interaction with ICANN Compliance/Legal
    - Step 4—submit TDRP with Provider

The Working Group has also considered the possibility of changing the TDRP to the extent that the current first level disputes resolution via the Registry is eliminated, with the external Dispute Resolution Providers becoming the only arena for TDRPs.[[1]](#footnote-1)

Discussing costs, the Working Group noted that costs to the RDNH to launch a TDRP with an Dispute Resolution Providers would be inevitable.[[2]](#footnote-2) However, it was agreed that the first few steps – to build the record necessary to launch a TDRP – should involve only minimal or zero costs, of which the RDNH needs to be aware before launching the process. This could be part of the information provisions of Question d) below.

**Note:** The WG discussed one case where a UDRP filed where web-host/developer is listed as the RDNH, but services are terminated and a transfer cannot be performed, and UDRP cannot produce a positive result because it is not a Trademark issue. This might be not be a transfer issue, but a defined TDRP process may be helpful for such a circumstance too. The WG noted that this could be reviewed in conjunction with the implementation of IRTP-C since it is related more to a Change of Registrant.

**Remaining Questions:**

* What should the concrete steps for a RDNH-launched TDRP be?
* What is the role of the Registry in this process if any?
* Can the Registrar still launch a TDRP?
* Can the potential costs involved for the RDNH be reduced by policy streamlining?

**Further Information to consider:**

A quick **survey of cc-TLDs** showed that individual registrants can complain to the operating registry if they are unhappy with the performance of their registrar. In some cases this explicitly includes unauthorized domain transfers; for the others this is only implicitly included but in all cases the registrants have the opportunity to complain to the operating cc-TLD registry on transfer related issues:

* Nominet: Registrants can launch a complaint against a Registrar (e.g. for alleged non-compliance with Registrar Agreement) with Nominet who will investigate on their behalf – no costs involved. Nominet will recuperate any costs from the Registrar if they are found at fault. See Nominet [Registrar Agreement](http://www.nominet.org.uk/become-registrar/registrar-agreement/registrar-agreement-contract) Section 2.8
* SIDN: 7.3. of the [Terms and Conditions](https://www.sidn.nl/fileadmin/downloads_en/Terms_and_Conditions/General_Terms_and_Conditions_for_Registrars.pdf) states: If SIDN finds it necessary to reverse an amendment to a registration, SIDN may charge the registrar that requested the amendment for the reversal. The amount payable will be a fixed amount, determined by SIDN on a reasonable basis.
* DENIC: “If your domain has been transferred for administration to another provider without your consent and without you even being informed, you should first of all contact your provider, who will try and sort the matter out for you. It is also advisable to seek the viewpoint of the new provider, since there may simply have been a genuine mistake, given that there is not always a malicious intent underlying such incidents. If you find that you are getting nowhere with these contacts, you can then get in touch with DENIC, who will need a description of all the steps you have already tried” <http://www.denic.de/en/faq-single/363/247.html?cHash=ba9da8ddb6632ef0db4a20270458494c>).

**Charter Question d)**

*Whether requirements or best practices should be put into place for registrars to make information on transfer dispute resolution options available to registrants;*

**WG Observation/Discussion:**

The WG agrees in principle that best practice should be put in place for registrars to make information on transfer resolution options available to registrants. The details of this could be defined based on the outcome of Charter question C.

In this context it is important that the information the registrant receives is consistent and up-to-date. A viable option would be an ICANN website containing all relevant information. All registrars and registries could then simply point to the ICANN hosted site, allowing for a easier an up-to date provision of relevant information for the registrant.

**Remaining Questions:**

- Who would define what the Best Practices would look it and what would define what it includes?

- What information should be included on the ICANN-hosted website?

1. A potential model for this could be the Registry Restriction Problem Report System (RRPRS) that allows Registrants to file a complaint against Registries for non-compliance with registration restrictions: “Initial complaints that a Registry has failed to comply with registration restrictions shall be processed through a Registry Restriction Problem Report System (RRPRS) using an online form similar to the Whois Data Problem Report System (WDPRS) at InterNIC.net. A nominal processing fee could serve to decrease frivolous complaints. The registry operator shall receive a copy of the complaint and will be required to take reasonable steps to investigate (and remedy if warranted) the reported non-compliance. The Complainant will have the option to escalate the complaint in accordance with this RRDRP, if the alleged non-compliance continues. Failure by the Registry to address the complaint to complainant’s satisfaction does not itself give the complainant standing to file an RRDRP complaint.” Also: “Complainants must have filed a claim through the Registry Restriction Problem Report System (RRPRS) to have standing to file an RRDRP.” See http://newgtlds.icann.org/en/applicants/agb/rrdrp-04jun12-en.pdf‎. [↑](#footnote-ref-1)
2. NAF US$1100 appx charge for TDRP (2/3 goes to arbitrator); [ADNDRC charges](https://www.adndrc.org/tdrp/tdrphk_schedule_fees.html) range between US$1000 (for single panelist arbitrations) and US$2500 for three panelist arbitrations). [↑](#footnote-ref-2)