

# Registries Stakeholder Group Statement



## Proposed Revisions to the ICANN Documentary Information Disclosure Policy

Date statement submitted<sup>1</sup>: **13 December 2021**

Reference url: <https://www.icann.org/en/public-comment/proceeding/proposed-revisions-to-the-icann-documentary-information-disclosure-policy-21-10-2021> .

### Background<sup>2</sup>

ICANN org needs your input on the proposed updates to ICANN's Documentary Information Disclosure Process (DIDP) to incorporate recommendations made in the [Final Report](#) of the Cross-Community Working Group on Enhancing ICANN Accountability Work Stream 2 (WS2). ICANN org also updated the DIDP Response Process as necessary to fully implement the WS2 recommendations and provides that update for information. ICANN org also needs your input on the proposed responsibility for the Ombudsman or Complaints Officer in relation to the DIDP by responding to the guided questions set forth in this Public Comment proceeding.

#### Documents

- [Proposed Update to the DIDP \(REDLINE\) \(PDF, 332.66 KB\)](#)
- [Proposed Update to the DIDP \(CLEAN\) \(PDF, 117.71 KB\)](#)

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## Registries Stakeholder Group comment\*

### *Summary of Submission:*

The Registries Stakeholder Group (RySG) welcomes the opportunity to comment on proposed updates to ICANN's Documentary Information Disclosure Process (DIDP) and provided feedback on the question.

**1. Please provide your input on the proposed updates to the Documentary Information Disclosure Policy (DIDP) to incorporate the Cross-Community Working Group on Enhancing ICANN Accountability Work Stream 2 (WS2) recommendations.**

#### RySG comment:

The language, "Materials, including but not limited to, trade secrets, commercial and financial information, confidential business information, and internal policies and procedures, the disclosure of which could

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<sup>1</sup> This is a copy of the comment submitted via the ICANN Public comment platform.

<sup>2</sup> Background: intended to give a brief context for the comment and to highlight what is most relevant for RO's in the subject document – it is not a summary of the subject document.

materially harm ICANN's financial or business interests or the commercial interests of its stakeholders who have those interests. Where the disclosure of documentary information depends upon prior approval from a third party, ICANN org will contact the third party to determine whether they would consent to the disclosure in accordance with the DIDP Response Process." is broader than previous versions of the DIDP.

**2. In light of the WS2 request for a specific analysis of the expansion of the Ombuds' role into the DIDP process, as it would represent a new non-complaints responsibility, please provide your inputs on some or all of the five criteria identified in WS2 Recommendation 5.11.**

RySG comment:

Any additional responsibilities or role for the Ombuds' in the DIDP as assigned via the incorporation of WS2 recommendations, should not remove or replace the opportunity for community members to avail themselves of the Reconsideration Request process or Independent Review process as set forth in Article 4 of the Bylaws. In addition, the questions are not explicit as to whether an expansion of the Ombuds or Complaints Office roles would also create more authoritative and less advisory capacity for the roles in relation to DIDP reviews and requests.

How would conflicting rulings on disclosure between the Ombuds and DIDP be handled? Would this provide a more streamlined/faster complaints process than the Reconsideration Request?

Further, in the background provided to the community in this public comment proceeding ICANN notes, that "DIDP requestor, if they believe that ICANN org was unfair in its DIDP response (based on any grounds) already can initiate a complaint with the Ombuds if they wish to do so. Similarly, the ICANN Complaints Office is a mechanism available to any person that has a complaint about ICANN org that does not fall into the jurisdiction of a different complaints mechanism. The Complaints Office remains an available avenue regardless of the specific definition for non-disclosure identified in ICANN's DIDP response.". This, however, is not included in the "Review of DIDP Responses" section of the DIDP. Though ICANN also notes that should a community member request a review by the Ombuds on a DIDP Response, the Ombuds would likely have to recuse themselves from their role in any subsequent Reconsideration Request. Clarification of any impacts on existing processes are important in evaluating any proposed change.

**3. Given that the ICANN Complaints Officer does not currently have a process or mandate to initiate their own appeals or reviews of ICANN org action, please provide any inputs for ICANN to consider on the proposed expansion of the role for the Complaints Office.**

RySG comment:

If, as noted by ICANN in the background material for this public comment, that a role in reviewing and responding to DIDP Responses could limit or conflict with existing Ombuds responsibilities (e.g. should a community member request a review by the Ombuds on a DIDP Response, the Ombuds would likely have to recuse themselves from their role in any subsequent Reconsideration Request), perhaps the Complaint's Officer is the more appropriate home for additional review of DIDP Responses.

**Other Comments**

**Are there any other issues you would like to raise? If yes, please enter your comments here. If applicable, please specify the document, document section, or page number to which your comments refer.**

RySG comment:

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