

Registries Stakeholder Group Statement

Issue: Updated Supplementary Procedures for Independent Review Process (IRP)

Date statement submitted: 31 January 2017

Reference URL: <https://www.icann.org/public-comments/irp-supp-procedures-2016-11-28-en>

RySG Comment:

The Registries Stakeholder Group (RySG) welcomes the opportunity to comment on the Updated Supplementary Procedures for Independent Review Process (IRP).

Timing of Claim-Filing:

With respect to the issue concerning the time within which an IRP claimant must file its claim or lose the ability to have IRP review the claim, the RySG is aware of the concerns raised by a number of commenters, including the concerns raised by Milton Mueller in his [blog](#)¹ on this issue.

The RySG thinks a claimant under the IRP process should be given a fair time within which to make their claim and urges the IRP IOT to review the timing issue again because the proposed timing is not fair. The IRP IOT should ensure that the claims-filing period allows a reasonably fair window for making claims so that ICANN can be appropriately held to remaining within Mission by IRP proceedings. The IOT might also consider eliminating the 45 day limitation from 'discovery' of a claim in favor of a single 'hard' limitations period of one year, with up to thirty days thereafter to pay the filing fee.

In addition, the RySG is concerned that there is a lack of clarity in the claims-filing period with respect to the impact on the period of intermediary proceedings aimed at more informally handling disputes, e.g. the CEP, the filing of a reconsideration request, and the like. We strongly believe that any claims filing period must be suspended during the pendency of these intermediary steps aimed at resolving disputes.

Also respecting timing, the RySG urges the IRP IOT to revise the limit with respect to possible IRP claims by the Empowered Community to ensure that there is sufficient time for the EC to file a complaint, taking into consideration the time required for the EC to execute its escalation process and prepare materials required for filing of a claim.

¹ http://www.internetgovernance.org/2017/01/07/putting-your-rights-on-the-clock-the-irp-supplementary-rules/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+internetgovernance%2FabwE+%28IGP+Blog%29

Parties

With respect to Sec. 7 (Consolidation, Intervention and Joinder) -- The IRP panel should consider whether it (as a panel) or a "Procedures" officer from within the standing panel should make these decisions in particular cases. The IRP panel will have better judgment as a panel what might be the best approach in any one case.

Discovery

With respect to Sec. 8 (Discovery Methods) -- The panel should have the power to allow other forms of discovery on a limited basis if it deems appropriate, and also should have sanctions power to compel compliance or to provide consequences for non-compliance.