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## WIPO-ICA UDRP Review Feedback

### Appeals

- We agree with WIPO-ICA's suggestion to consider an appeals procedure, which can be initiated by either party. A fair and impartial dispute mechanism is essential, and it must be seen as such by all involved parties. We feel that prioritising the discussion around appeals is key.
- A robust system allows for the testing of decisions and provides an opportunity to ensure the process is fair and just. If the mechanism falls into disrepute through an absence of an appeals process, it will ultimately fail those it aims to serve.
- By implementing this procedure, we can ensure that panels' decisions can be challenged and assessed, providing a more balanced and equitable mechanism
- We suggest an expert group of appeal panellists, with members appointed by the dispute provider on a cab rank basis, ensuring impartiality.
- Appeals should be a *de novo* review, allowing for a fresh assessment of the dispute.
- Appeals should carry precedential status, providing clarity and consistency in decision-making.
- We propose an appeal fee of \$5,000 to \$7,500. This range strikes a balance between accessibility and preventing vexatious appeals.

### Other potential updates

- We take the view that the scope of the UDRP should not be expanded beyond trademark-based cybersquatting. We propose that new mechanisms should be created for different issues, where a need is identified, with the UDRP being used as a template to fast-track process design.
- Identifying dissenting panellists in all decisions would be very useful to show the process is fair.
- We would suggest a cautious approach to changing "and" to "or".
- While a 'loser pays' model is ideal in theory, the practical challenges, particularly with anonymous registrations, could prove difficult. However, this model shouldn't be dismissed outright. With careful consideration, we may be able to devise a system that balances the interests of all parties.

### Administrative issues

- Strengthen ICANN's role in ensuring registrar compliance and providing training on obligations would be very useful to ensure post-dispute proceedings & transfers are quick and efficient.

- Develop an FAQ and host a 'UDRP Bootcamp' webinar to educate registrars on processing complaints and transfer orders. As noted, procedures to improve registrar compliance would be beneficial.
- We agree that standardising procedures for complaint withdrawals across all providers would be useful. Strongly suggest that the current system of having both parties consent to withdrawal remains in order to prevent vexatious complainants and "cat-and-mouse" complaints
- We would support consideration of a small ICANN subsidy, drawn from registration fees, to support UDRP operations, education, and panel remuneration. This would be very useful to retain the quality of decision required to keep the UDRP operating effectively. We observe that fees haven't gone up in 25 years and we need to keep standards of decision high to ensure trust in the system
- We support standardising best practices for redacting party names across providers as this can be inconsistent
- We would agree that requiring registrars to provide additional notice to respondents, including emails and notification of domain locking would be helpful, especially if these notices were standardised across providers.

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