

22 August 2019

Response to Questions from the Review of All Rights Protection Mechanisms (RPMs) Policy Development Process (PDP) Working Group Co-Chairs

From: GNSO Council Leadership Team
To: RPMs PDP Working Group Co-Chairs
Cc: Paul McGrady (GNSO Council Liaison)

Dear Kathy, Brian and Phil,

Thank you for your letter of 19 August 2019, which was forwarded to the GNSO Council leadership team by Paul McGrady, the Council liaison to the RPMs PDP Working Group. We have discussed the matter with Paul (who is cc'd on this response) and ICANN policy staff, and we hope that this response from us will enable you and the Working Group to resume your deliberations without further delay.

Phase One of this PDP is to focus on a review of all the RPMs that were developed for the New gTLD Program, as opposed to a review of policy recommendations or a consensus policy. In accordance with the GNSO Council resolution initiating this PDP (<http://gnso.icann.org/en/council/resolutions#20160218-3>), the Working Group was tasked "... to review and determine whether modifications to the existing RPMs (including but not limited to the UDRP) are needed and, if so, what they should be." The Working Group's Charter (see <http://gnso.icann.org/en/drafts/rpm-charter-15mar16-en.pdf>) is also unambiguous in that the Working Group "is expected to first assess the effectiveness of the relevant RPM(s)... The Working Group should also consider the interplay between and complementary roles of each RPM in seeking to more fully understand their overall functioning and effectiveness."

The GNSO Council leadership views the Special Trademark Issues Review Team (STI) and the Applicant Guidebook (AGB) as both implementation efforts relating to the 2008 consensus policy, rather than policy itself. The AGB is the latest version of the implementation efforts developed with substantial community input, as now reflected in the New gTLD Registry Agreement. It should therefore be considered the baseline as it is the document upon which the Phase One RPMs are based.

The GNSO Council leadership will be updating the full GNSO Council on the request we received from you as the PDP Working Group co-chairs. Unless we update you with additional information, however, we request that the RPM Working Group proceed with its work in accordance with this response.

Thank you.

Best regards,
Keith Drazek, Pam Little & Rafik Dammak (GNSO Council leadership team)