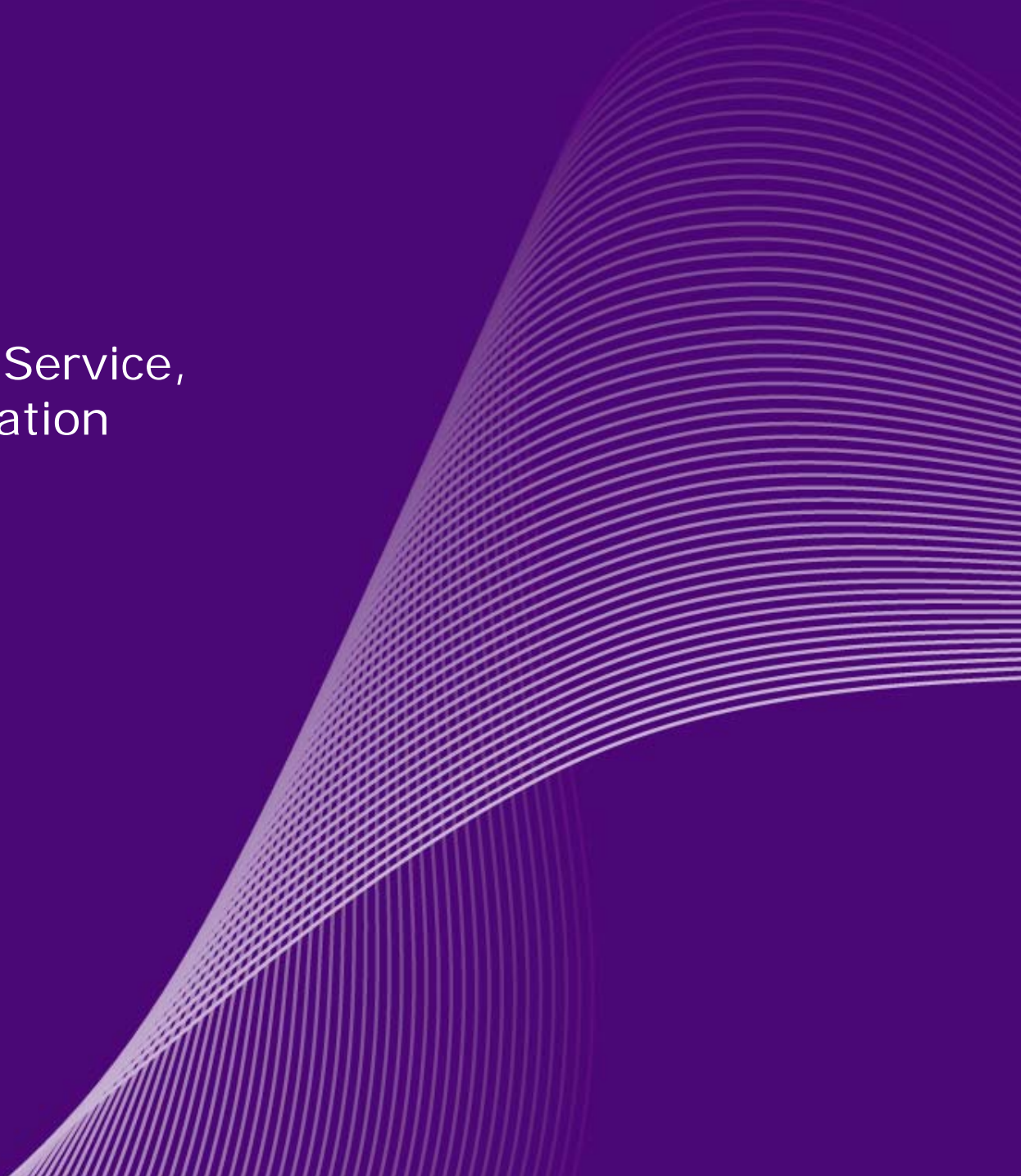


# nominet

Dispute Resolution Service,  
outcome of consultation

March 2008



# Agenda

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- The context – our existing service
- Why we made proposals to change it
- Recap on the consultation timelines and themes
- Outcomes
- The contribution of the PAB

## Aims of the DRS

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- To provide an alternative dispute resolution service to match speed and ease of registration
- To resolve disputes through mediation
- Nominet must be neutral
- Quick, simple, fair and approachable service
- Designed for clear cases of abuse

## Mediation – The Practice

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The practice:

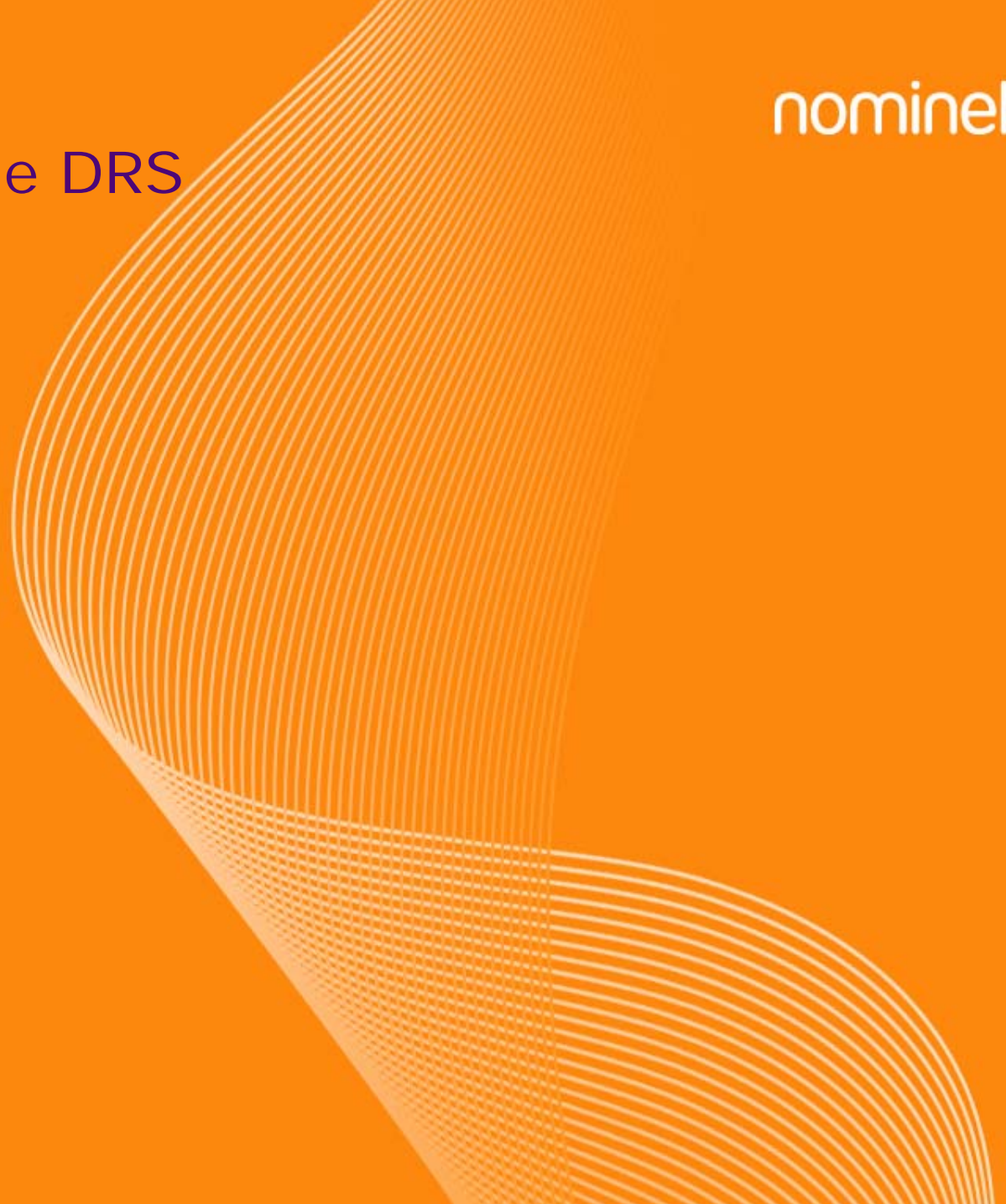
- 60% success rate
- Implications ...
  - Published decisions are heavily weighted in favour of no response cases which do not proceed to mediation (68%)
  - Nominet's culture
- 2 full time dedicated non-lawyer trained mediators
- Globally acclaimed and award-winning

# Unusual Settlements

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- Settlements for:
  - Discount purchases (supplier & distributor dispute)
  - Donation to charity
  - A Piano and Speaker system
  - Tickets to a Comedy Club
- One case was settled because the mother of the complainant and respondent told them over Sunday lunch to sort it out.
- Customer feedback about mediation

# Revisions to the DRS



## Why did we propose revisions?

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- Regular updates to the service: 2001, 2004, 2007-8
- Catching up with developments:
  - Secondary market
- Responding to feedback from users, and from the PAB
- Contrast to UDRP – 1 December 1999

# Consultation Proposals

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- First consultation 17 November 2006 to 16 February 2007
- Further consultation September – October 2007

The issues:

- Default Transfer Process
- Secondary market – safeguards and descriptive terms
- Expert review group
- Expert representation in DRS cases
- Procedure, plain English and terminology

# Consultation Responses

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- Record 128 formal responses to the first consultation
- 150 formal responses to the second consultation
- Little consensus
- Criticism and praise

# Consultation outcome



## Summary transfer for no response cases

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- Same workflow up to decision stage
- Expert certifies that complainant has made out prima facie case on both Rights and Abuse.
- No written decision but the outcome will be recorded on our website.
- Checklist style record will be made in each case.
- Fees: £200, but complainant still has option to pay full £750
- The DRS will not charge for its services, other than the expert fees which are entirely passed on to the panel of experts.
- Appeals will continue to follow the same process as at present
- What about 3 strikes?

## Secondary market

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- Clarification that Rights may exist in descriptive terms that have acquired a secondary meaning.
- Clarification that certain activities are not in themselves abusive, but that cases of this kind will depend on their particular facts.

# Expert Review Group

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- Objectives:
  - highlight inconsistencies and errors
  - quality control.
- Members of the ERG will no longer personally take decisions under the DRS or represent parties.

## Likelihood of confusion

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- 'Likelihood of confusion' to be introduced

## Procedure and plain English

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- Word limit for submissions increased to 5,000 words.
- Clarification that the Reply stage is only to respond to new matters.
- Clarify Non-Standard Submissions. We will only copy the explanatory paragraph to the parties if expert admits full submission.
- Respondents will be able to pay for an expert decision, if the Complainant declines to pay.
- The term 'Abusive Registration' will be retained.
- We will review the Policy and Procedure and make Plain English amendments

## No change

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- Fees
- Experts representing parties in the DRS

## Online service improvements

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- Updating online forms will become more user friendly, including the introduction of formatting.
- We will introduce a searchable database of DRS decisions

## Contribution of the PAB

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- Providing feedback prior to the consultations
- Input to consultation 1
- Sounding board during consultation 2
- Constructive dialogue and suggestions

Questions?

