

Following the 6 February meeting, I've thought further about how the DRS could use fees to improve its procedures. Below is an attempt to describe a new option that I think, if properly implemented, could work to everyone's advantage. It sounds more complicated than it really is. I'd be glad to explain this and help to work out details if you think it worth exploring.

In the interests of quality, fairness and accessibility to all, I would also favour:

- corrections procedures for errors that don't justify a full appeal
- Nominet refunding appeal fees to successful appellants
- both parties having the option of paying for an expert decision

New DRS option

The option of making a modest up-front charge of £x to complainants seems to be widely favoured, in the interest of improving complaint quality.

It would seem fair to offer complainants something in return for this. What about something on the following lines?

In case of non-response, as at present the complainant could request a full expert decision (paying £750-x). But the complainant would also have a new option, of requesting a 'non-response rights-only expert decision' for a lower fee. (£x might be set to cover a reduced expert fee, bearing in mind that not all complaints would lead to an expert decision, or if necessary an extra £y might be charged at this stage).

If the complainant chose this option, then Nominet would notify the registrant accordingly, making additional efforts to ensure that the registrant received the notification, including where possible phoning the registrant. If there were still no response, then an expert would examine the complainant's rights, and if these were recognised then the complaint would succeed, with a presumption of abusive registration. An expert who felt that rights were only marginally established might choose to cancel rather than transfer the registration. If the expert found that rights were not established then there could be a finding of reverse domain name hijacking.

If the registrant responded only at this stage, he would be required to pay a late response fee of £z (which could be refundable in the event that an expert decision found in his favour). In other respects the procedure would be as if he had responded within the initial response period.

The late response fee should encourage registrants to maintain contact details at which they can be easily reached, and to respond if they have a case to make.

The new option should provide a streamlined way for justified complainants to recover domain names from non-responding registrants, while giving registrants extra opportunity and incentive to respond to complaints. Experts could have more confidence that no response meant that the registrant had decided not to respond, rather than not having heard of the complaint.

Claire Milne

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