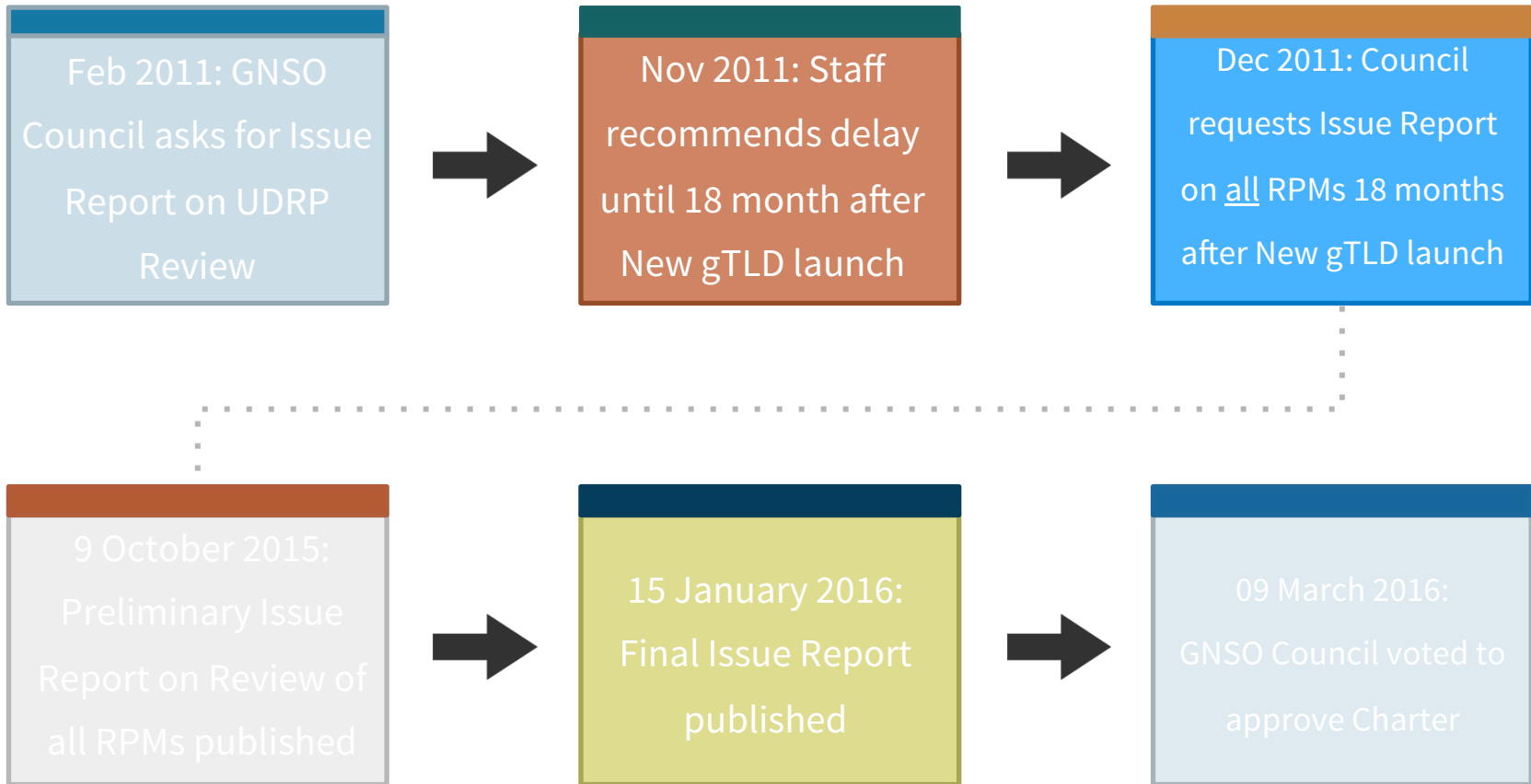




# PDP WG to Review all RPMs in all gTLDs

Status Update - 10 March 2016

# How did we get here



# What are the RPMs to Review?

## Sunrise Period and Trademark Claims Service

Sunrise services provide trademark holders with advance opportunity to register domain names corresponding to their marks before names are generally available to the public.

The Trademark Claims period follows the Sunrise period and runs for at least the first 90 days in which domain names are generally made available to all registrants that are qualified to register domain names within the TLD.

## Uniform Rapid Suspension (URS)

The URS was designed as a complement to the UDRP, to provide trademark owners with a quick and low-cost process to suspend domain names on the same substantive grounds as the UDRP. It applies only to domain names registered in the New gTLDs.

## Trademark Clearing House (TMCH)

The Trademark Clearinghouse is a global database of verified trademark information to support rights protection processes. Benefits of inclusion are access to Sunrise Period and Trademark Claims Service.

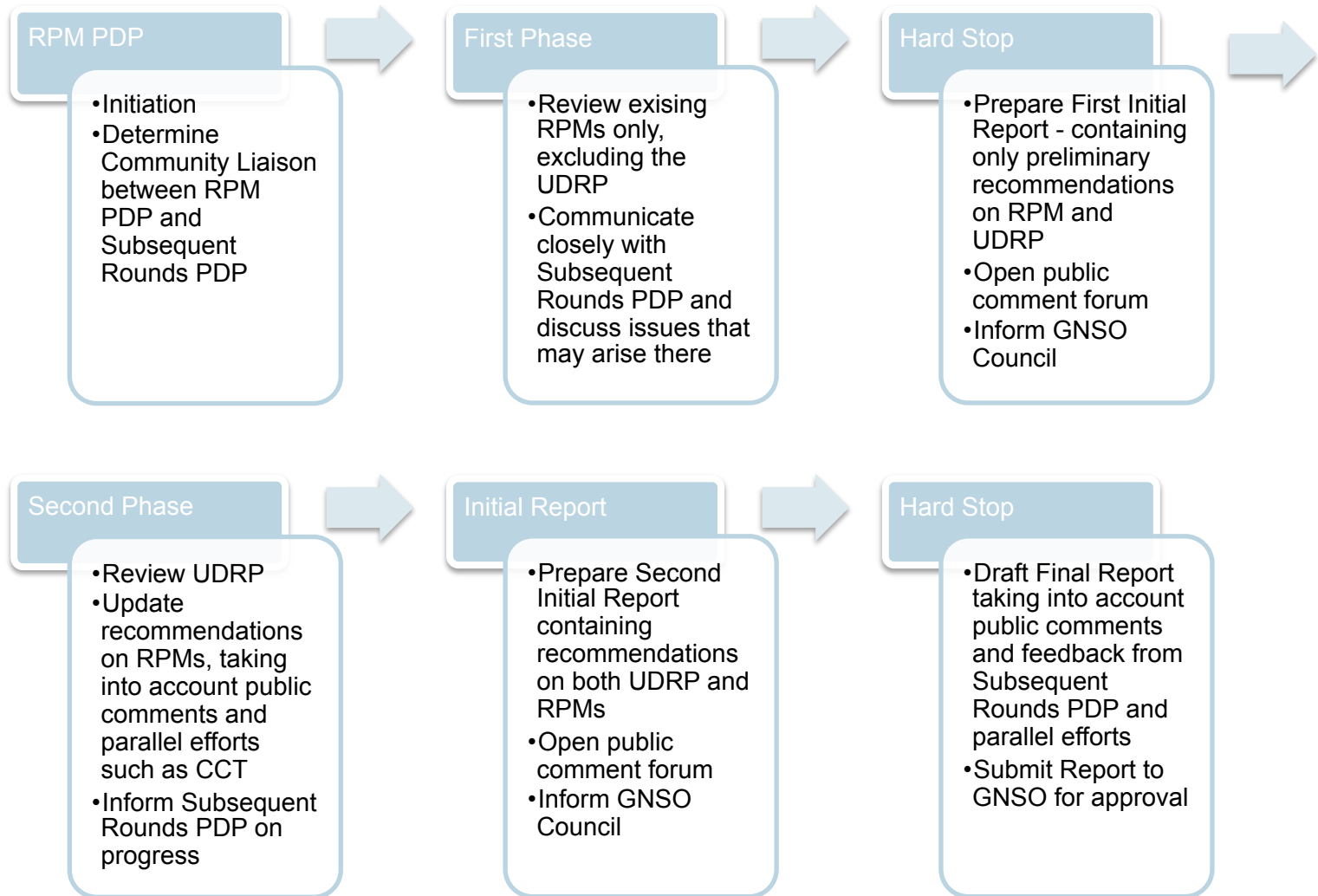
## Post-Delegation Dispute Resolution Procedures (PDDRPs)

The PDDRPs provide alternative avenues for a trademark holder who is harmed by a new gTLD registry operator's conduct to obtain redress.

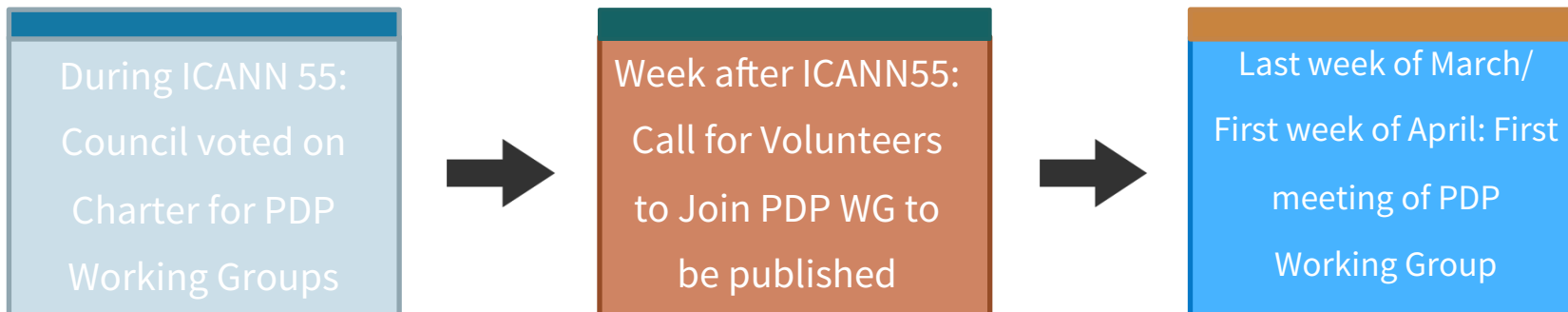
## Uniform Dispute Resolution Policy (UDRP)

The UDRP was created in 1999 and provides a uniform, standardized alternative dispute resolution procedure to resolve disputes concerning who is the rightful holder of a registered domain name. It is applicable to all domains registered in all generic top-level domains (gTLDs).

# Two-Phased PDP as laid out in Charter



# Next Steps



## Info:

- ⦿ Final Issue Report  
<http://gns0.icann.org/en/issues/new-gtlds/rpm-final-issue-11jan16-en.pdf>
- ⦿ Public Comment and Preliminary Issue Report:  
<https://www.icann.org/public-comments/rpm-prelim-issue-2015-10-09-en>





# Trademark Clearinghouse (TMCH) Independent Review

Karen Lentz & Antonietta Mangiacotti | ICANN 55 | 10 March 2016

# Background & Study Goals

## ⦿ Review areas:

### ⦿ Trademark Clearinghouse processes

- ⦿ a) Verification process;
- ⦿ b) Sunrise Period; and
- ⦿ c) Trademark Claims service



### GAC specified areas

- ⦿ a) Inclusion of non-exact matches
- ⦿ b) Extension of the Trademark Claims notification service

## ⦿ Data sources:

- ⦿ TMCH database
- ⦿ UDRP and court proceedings
- ⦿ Interviews of service providers and key user groups

## ⦿ Goals:

- ⦿ Outline issues for evaluation and identify those with most impact
- ⦿ Further clarify issues for policy development work
- ⦿ Inform and support the discussion on related RPM efforts

# Overview of Analysis Group Trademark Clearinghouse Study

**Prepared for: ICANN 55**

March 10, 2016



## Who We Are

- Our team includes:
  - Greg Rafert, Vice President, Analysis Group, a firm specialized in economics, health care analytics, and strategy consulting for Fortune 500 companies, global health care corporations, government agencies and law firms.
  - Katja Seim, Associate Professor of Business Economics and Public Policy, Wharton School, University of Pennsylvania. Specializes in applied economics
  - Jiarui Liu, Non-Residential Fellow, Center for Internet and Society, Stanford Law School. Specializes in intellectual property law.

# Overview of Our TMCH Study

- Our independent study, informed by GAC advice, focuses on three aspects of the TMCH:
  - The matching criteria used to determine which domain names are relevant to the claims service and sunrise registration periods;
  - The trademark protection provided by the claims service; and
  - The trademark protection provided by the sunrise registration period.
- We will conduct rigorous empirical analyses to determine how these services are used and how effectively they protect trademark holders' rights.
- Analysis Group will also collect stakeholder opinions on the above TMCH services to inform our understanding of the costs and benefits of these TMCH services.

## Matching Criteria

- The primary goal of these analyses is to assess the potential costs and benefits of expanding the trademark matching criteria to include non-exact matches.
- To do so:
  - We will select a sample of registered trademarks from the TMCH.
  - Then, for each trademark and non-exact string match (for each trademark), we will identify (1) if the string is registered in .com and other gTLDs and (2) who the registrant is. After registrants have been identified, we will quantify the percentage of string variations which are registered by the trademark holder, another registrant, or not registered at all.
- We will also investigate the extent to which some non-exact domain names have a higher chance of being the subject of a dispute.

# Claims Service

- Here, our primary goal is to understand how trademark holders and potential registrants are affected by the claims service by assessing how the value of the service varies across trademark holders and whether it is a deterrent for potential registrants.
- To do so, claims service and UDRP data will be used to determine how often notifications result in registrations being abandoned, registrations being completed but disputed, or registrations being completed and not disputed.
- By examining the percentage of exact and non-exact strings that fall into the above categories, we can analyze what the current benefit to trademark holders is of the claims service, and approximate what the benefit will be for various types of non-exact strings.

## Sunrise Period

- The goal is to determine how often trademark holders use the sunrise period relative to general registration, and whether that varies across different trademark holders.
- To undertake this analysis, we will examine the extent to which trademark holders register domains during the sunrise period of a new gTLD versus registering the domain name during general availability periods (or not at all).
- If we find that a significant amount of registrations by trademark holders are made during the sunrise period, this would be an indication that trademark holders value the opportunity to have priority registration.



# Collection of Stakeholder Public Opinions

- Analysis Group will collect stakeholder opinions in public forums, questionnaires, and interviews in two stages:
  - A first round of interviews will inform what aspects of the matching criteria, claims service, and/or sunrise period would be useful for us to analyze (beyond what we currently intend to analyze).
  - A second round of interviews will provide qualitative information to complement the results of our data-based analyses.

# Expected Project Timeline

- Q1 2016
  - Collection and analysis of data
  - Collection of stakeholder opinions
  - Drafting of report
- Q2 2016
  - Continued analysis of data, collection of stakeholder opinions, and drafting of report
  - Publish draft report for public comment
- Q3 2016
  - Publish revised report

## Discussion Questions

- In the context of the TMCH, the original goal was to protect the existing rights of trademark holders without expanding or creating new rights. In your view, does the current TMCH system sufficiently protect the existing rights of trademark holders?
- Please tell us whether, in your opinion, expanding the matching criteria would be beneficial or costly for your organization (or others) and why.
- In your view, would it be useful to expand the Claims Notification Service period beyond 90 days?
- Are there any other data sources that should be taken into account to help inform this review?
- How would modifying any of the TMCH services discussed affect your organization?