



nominet

Internetdagarna

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Transparency, efficiency, cost and
fairness in UK domain ADR

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The iceberg issue ...

- 70% + of Nominet ADR decisions are “no response” from domain name registrant
- In these cases the complainant has a 95% + win rate
- The complainant bears all of the cost of the fully reasoned decision (1,240 USD, 8,700 SEK)
- 35% of complainants declined to pay the fee even when the case was “no response” and withdraw from the process
- The costs are the biggest source of dissatisfaction with the Nominet ADR service
- Isn't there a better way?



About Nominet

- Established 1996 as a not for profit corporation to manage .uk
- Inherited 28,000 legacy registrations
- Now has 7.9m registrations, 10% annual growth
- Independent, “owned” by UK registration industry
- Good reputation and viewed as a successful ccTLD

Registration in .uk

- Essentially “first come, first served”
- 2 year term, registrar price 8.25 USD (58 SEK)
- 3000+ registrars
- Open registry model is justified on the basis of cheap and accessible rights protection mechanisms
- Prompt dealing with complaints improves the quality of the database and the general reputation of the registry
- Nominet has relatively few legal disputes in relation to the registry operation

Aims of the DRS

- To provide an alternative dispute resolution to match the cost and convenience of the registration process
- To be neutral and unbiased
- To resolve disputes through mediation
- To be quick, simple, fair, transparent and approachable
- To address clear cases of abuse
- Provided as a free service by Nominet but any expert decision fees are paid by the complainant

Discussion of a solution

- In the UK courts, a defendant who does not enter any plea will lose by default
- (There is a process to set aside if the defendant can later show “just cause”)
- Why not adopt the same principle in domain name disputes?

Record objections!

- 151 responses to the public consultation
- Some say that it is still not good enough the complainants but ...
- ... mostly the view is that a registrant's default may be unintentional and the matter must always be reviewed by a competent panellist to ensure that the complainant has in fact made out its case ...
- ... and unscrupulous complaints would be filed in the hope that the registrant would not respond, the process would be liable to abuse and "gaming" by reverse hijackers
- More thought is needed

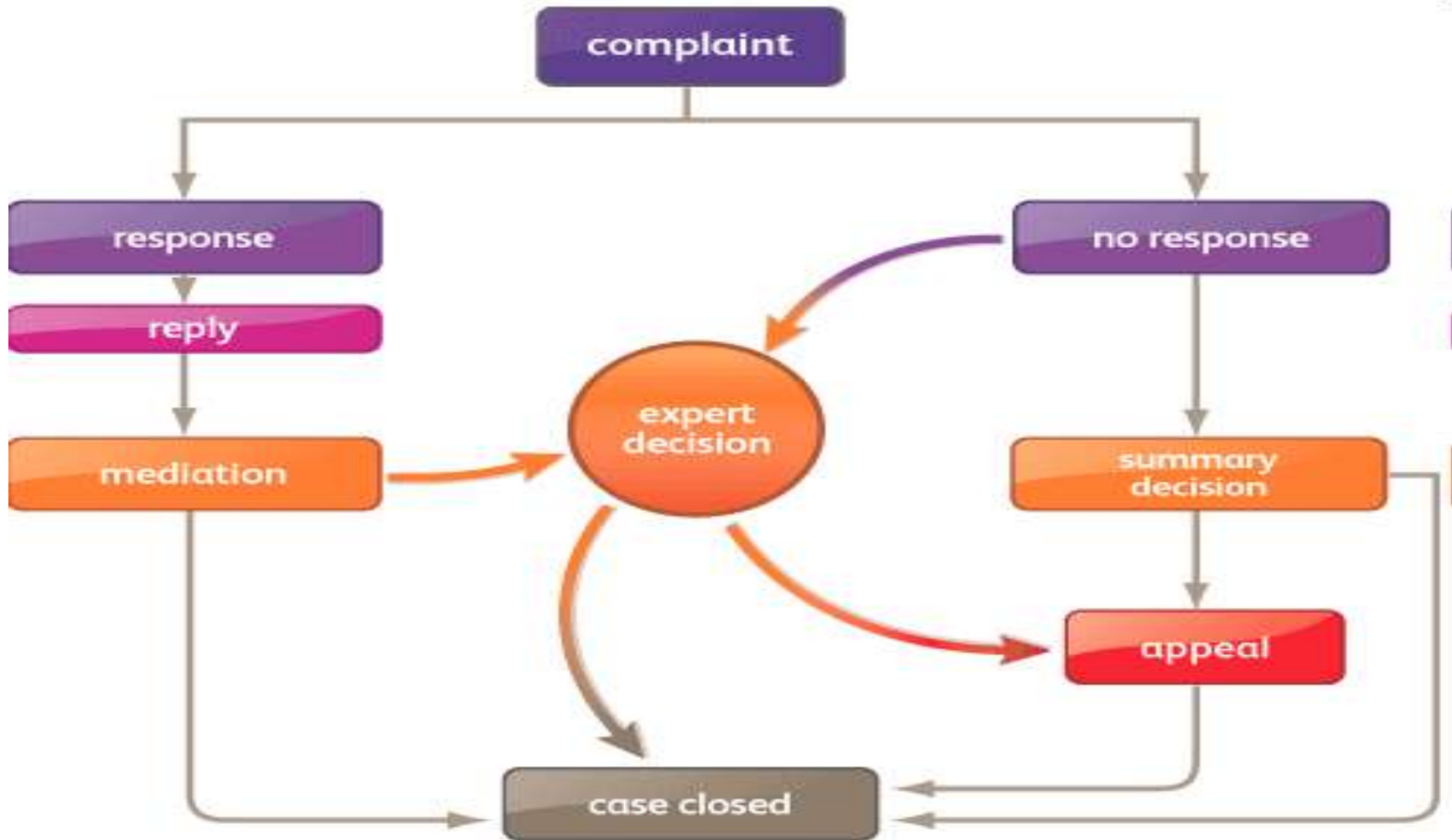
The Summary Decision concept

- The procedure remains the same except that where there is no response ...
- ... the complainant has the option of a cheaper one page Summary Decision
- In a Summary Decision the panellist merely has to certify all of the following:
 - Nominet has properly notified the registrant of the complaint (registered post letter and email/ fax)
 - The complainant has made out Rights
 - The registration is Abusive
 - No other factors apply which would make the Summary Decision process unconscionable

The Summary Decision concept

- Therefore the test for success remains exactly the same but time required by the expert is much less
- Cost is correspondingly less at 330 USD (2,320 SEK), about 25% of the Full Decision cost

Complaints – Dispute Resolution Service



Summary Decisions - experience

- Very popular with complainants
- 88% chose the option of Summary Decision
- Complainants save 133,402 USD (940,285 SEK)
- Complainants don't see the value in paying for full reasoning, they just want the result
- The success rate in Summary Decisions is the same as for "no response" Full Decisions (94% vs 95%)
- The success rate for "response" Full Decisions remains unchanged (60%)
- Significant improvement in the market research user experience scores

Summary Decisions – any issues

- Q: Is a decision without reasoning in truth a decision in terms of administrative process?
- A: There is an appeal route, effectively a complete re-hearing
- (No Summary Decision has yet been the subject of an appeal)
- Q: The efficiency of the ADR process has improved and the response from complainants very positive, but has that been at the expense of registrant rights?
- A: Constant win rate at 94-95 %, same as previous experience with “no response” decisions, would indicate no major concerns here

Summary Decisions – any issues

- Q: Are we promoting complaints?
- A: Complaints submitted remains at a constant level as before the introduction of Summary Decision process
- Q: Is this too good to be true, a template for other domain name ADR?
- A: ??

Q&A

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