TO: **ICANN Board of Directors**

TITLE: **GNSO Council Inter-Registrar Transfer Policy Part B, Recommendation #8**

PROPOSED ACTION: **Board Action to Approve**

1. EXECUTIVE SUMMARY

The Generic Names Supporting Organization (GNSO) Council unanimously approved at its meeting on 16 February 2012 a proposed change related to the Inter-Registrar Transfer Policy (IRTP) and is now seeking Board review and approval. This recommendation is made following completion of the IRTP Part B Policy Development Process (PDP) and concerns the implementation of Recommendation #8 and the accompanying staff proposal.

IRTP Part B Recommendation #8 recommends standardizing and clarifying WHOIS status messages regarding Registrar Lock status. The goal of these changes is to clarify why the Lock has been applied and how it can be changed. The ICANN Staff proposal agrees that the standardization and clarification of WHOIS status messages does not require significant investment or changes at the registry/registrar level. As outlined in the IRTP Part B Final Report, it is possible to associate each EPP status value with a message that explains the meaning of the respective status value. Registrars would be required to display a link to information on each status code directly next to the status in the output, for example: "Status: ClientLock http://www.internic.net/status/html/clientlock". This link would then direct to an ICANN controlled web page where the relevant status code information as described in the 'EPP Status Codes, what do they mean and why should I know?'[1] is posted. ICANN will also post translations of the status information. The web page can make use of localization information from the browser the user is using to display the web page in the related language. The requirement for registries and registrars to provide this link and ensure uniformity in the message displayed could be implemented as a standalone 'WHOIS Status Information Policy' or as an addition to the IRTP. In order to avoid potential blocking or stripping out of URLs from WHOIS output for valid reasons, registrars would be required to not remove Internic.net hyperlinks (or particularly the Internic.net status hyperlink) from their WHOIS output. In

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[1] The IRTP Part B Working Group, with the support of ICANN Staff developed this document, which provides an overview of EPP Status Codes and what they mean (see Annex F of the IRTP Part B Final Report [PDF, 972 KB] – EPP Status Codes, what do they mean and why should I know?)

addition to the link, registrars would be required to include in the WHOIS output a note that would state "For more information on WHOIS status codes, please visit Internic.net" where the link to the information would be posted.

Under the ICANN Bylaws, the Council's unanimous (supermajority) support for the motion obligates the Board to adopt the recommendation unless by a vote of more than 66%, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

The policy recommendations above, if approved by the Board, will impose new obligations on certain contracted parties. The GNSO Council's unanimous vote in favor of these items exceeds the voting threshold required at Article X, Section 3.9.f of the ICANN Bylaws regarding the formation of consensus policies.

The Annex to this submission provides the background and further details with regard to these recommendations.

2. BACKGROUND

The Inter-Registrar Transfer Policy (IRTP) aims to provide a straightforward procedure for domain name holders to transfer their names from one ICANN-accredited registrar to another should they wish to do so. The policy also provides standardized requirements for registrar handling of such transfer requests from domain name holders. The policy is an existing community consensus policy that was implemented in late 2004 and is now being reviewed by the GNSO.

The IRTP Part B Policy Development Process (PDP) was the second in a series of five PDPs that address areas for improvements in the existing Inter-Registrar Transfer Policy. The GNSO IRTP Part B Policy Development Process Working Group was tasked to address five issues focusing on issues related to domain hijacking, the urgent return of an inappropriately transferred name and "lock status". The WG delivered its Final Report to the GNSO Council on 31 May 2011. The GNSO Council acted on a number of the recommendations at its meeting on 22 June 2011, which were subsequently adopted by the Board

on 25 August 2011. In relation to recommendation #8, a proposal from staff was requested. Following consultations with the IRTP Part B Working Group, a public comment forum on the Staff Proposal and review of additional comments that were submitted after the closing of the public comment forum, the GNSO Council approved IRTP Part B Recommendation #8 and the updated staff proposal at its meeting on 16 February 2012 (see http://gnso.icann.org/resolutions/#201202).

3. **RATIONALE FOR ADOPTION OF THE RECOMMENDATION:**

Why is this issue addressed now?

The Inter-Registrar Transfer Policy (IRTP) is a consensus policy that was adopted in 2004 which provides for a straightforward process for registrants to transfer domain names between registrars. The GNSO Council established a series of five Working Groups (Parts A through E) to review and consider various revisions to this policy.

The IRTP Part B PDP is the second in a series of five scheduled PDPs addressing areas for improvements in the existing policy. The IRTP Part B Working Group has addressed five issues focusing on domain hijacking, the urgent return of an inappropriately transferred name, and lock status. Most of these recommendations have already been adopted by the GNSO Council and the ICANN Board. In relation to recommendation #8, a proposal from staff was requested. Following consultations with the IRTP Part B Working Group and a public comment forum on the Staff Proposal, ICANN Staff submitted its proposal to the GNSO Council. Following this, additional comments were submitted by the Intellectual Property Constituency. The GNSO Council reviewed the comments and the updated staff proposal, which was submitted addressing the comments provided by the IPC. The GNSO Council approved IRTP Part B Recommendation #8 and the updated staff proposal unanimously at its meeting on 16 February 2012 (see http://gnso.icann.org/resolutions/ - 201202). The IRTP Part B PDP Final Report received unanimous consensus support from the IRTP Part B Working Group as well as the GNSO Council.

What is the proposal being put forward for Board consideration?

Recommendation #8 recommends standardizing and clarifying WHOIS status messages regarding Registrar Lock status. The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Based on discussions with technical experts, the IRTP Part B WG does not expect that such a standardization and clarification of WHOIS status messages would require significant investment or changes at the registry/registrar level. The IRTP Part B WG recommended that ICANN staff is asked to develop an implementation plan for community consideration which ensures that a technically feasible approach is developed to implement this recommendation.

The ICANN Staff proposal agrees that the standardization and clarification of WHOIS status messages does not require significant investment or changes at the registry/registrar level. As outlined in the IRTP Part B Final Report, it is possible to associate each EPP status value with a message that explains the meaning of the respective status value. Registrars would be required to display a link to information on each status code directly next to the status in the output, for example: "Status: ClientLock http://www.internic.net/status/html/clientlock". This link would then direct to an ICANN controlled web page where the relevant status code information as described in the 'EPP Status Codes, what do they mean and why should I know?'[2] is posted. ICANN will also post translations of the status information. The web page can make use of localization information from the browser the user is using to display the web page in the related language. The requirement for registries and registrars to provide this link and ensure uniformity in the message displayed could be implemented as a standalone 'WHOIS Status Information Policy' or as an addition to the IRTP. In order to avoid potential blocking or stripping out of URLs from WHOIS output for valid reasons, registrars would be required to not remove Internic.net hyperlinks (or particularly the Internic.net status hyperlink) from their WHOIS output. In addition to the link, registrars would be required to include in the WHOIS output a note that would state "For more information on WHOIS status codes, please visit Internic.net" where the link to the information would be posted.

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Outreach conducted by the Working Group to solicit views of groups that are likely to be impacted

Public comment forums were held by the Working Group on the initiation of the PDP, the Initial Report, the proposed Final Report and the Staff Proposal on Recommendation #8 in additional to regular updates to the GNSO Council as well as workshops to inform and solicit the input from the ICANN Community at ICANN meetings (see for example, Brussels Meeting and San Francisco Meeting). Constituency / Stakeholder Group Statements were submitted (see https://community.icann.org/display/gnsoirtpb/IRTP+Part+B). All comments received were reviewed and considered by the IRTP Part B PDP WG (see section 6 of the IRTP Part B Final Report). In addition, as prescribed by the ICANN Bylaws, a public comment forum is being held on the recommendations to be considered by the ICANN Board.

What concerns or issues were raised by the community?

Following the closing of the public comment forum on the staff proposal (no comments received) and the submission of the proposal to the GNSO Council, the Intellectual Property Constituency submitted a number of comments, which ICANN staff responded to by submitting an updated proposal. The comments and updated proposal were considered as part of the GNSO Council deliberations. Subsequently, the GNSO Council adopted the recommendation and updated ICANN Staff proposal unanimously.

What significant materials did the PDP Working Group and GNSO Council review outlining the support and/or opposition to the proposed recommendations?

The materials and input reviewed by the IRTP Part B PDP Working Group are outlined in the IRTP Part B Final Report, which also outlines the full consensus support of the IRTP Part B Working Group for this recommendation. In addition to the regular updates as described above, the GNSO Council reviewed this Final Report and the ICANN Staff proposal, as well as the comments submitted by the IPC and Staff's response to those comments.

What factors the GNSO Council found to be significant?

The recommendation was developed by the IRTP Part B Working Group following the GNSO Policy

Development Process as outlined in Annex A of the ICANN Bylaws and has received the unanimous support from the GNSO Council. As outlined in the ICANN Bylaws, the Council's unanimous (supermajority) support for the motion obligates the Board to adopt the recommendation unless by a vote of more than 66%, the Board determines that the policy is not in the best interests of the ICANN community or ICANN. In addition, transfer related issues are the number one area of complaint according to data from ICANN Compliance. Improvements to the IRTP have the potential to reduce the number of complaints, in addition to providing clarity and predictability to registrants as well as registrars.

Are there positive or negative community impacts?

Improvements to the IRTP have the potential to reduce the number of complaints, in addition to providing clarity and predictability to registrants as well as registrars. Adoption of the recommendations will require changes in processes for registrars, but these are considered to have a minimum impact and necessary in order to address the issues that are part of this Policy Development Process. The recommendations, if implemented, would usefully clarify and enhance the IRTP, to the advantage of all parties concerned.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

Apart from those changes required in process for registrars as outlined above, no other fiscal impacts or ramifications on ICANN; the community; and/or the public are expected.

Are there any security, stability or resiliency issues relating to the DNS?

There are no security, stability, or resiliency issues related to the DNS if the Board approves the proposed recommendations.

4.   COUNCIL MOTION ADOPTING THE RECOMMENDATION AND STAFF PROPOSAL

Motion on the Adoption of the Staff Proposal on IRTP Part B Recommendation #8

Made by: Yoav Keren

Seconded by: Stéphane van Gelder

WHEREAS on 24 June 2009, the GNSO Council launched a Policy Development Process (PDP) on IRTP Part B addressing the following five charter questions:

a. Whether a process for urgent return/resolution of a domain name should be developed, as discussed within the SSAC hijacking report (http://www.icann.org/announcements/hijacking-report-12jul05.pdf); see also (http://www.icann.org/correspondence/cole-to-tonkin-14mar05.htm);

b. Whether additional provisions on undoing inappropriate transfers are needed, especially with regard to disputes between a Registrant and Admin Contact (AC). The policy is clear that the Registrant can overrule the AC, but how this is implemented is currently at the discretion of the registrar;

c. Whether special provisions are needed for a change of registrant when it occurs near the time of a change of registrar. The policy does not currently deal with change of registrant, which often figures in hijacking cases;

d. Whether standards or best practices should be implemented regarding use of a Registrar Lock status (e.g. when it may/may not, should/should not be applied);

e. Whether, and if so, how best to clarify denial reason #7: A domain name was already in 'lock status' provided that the Registrar provides a readily accessible and reasonable means for the Registered Name Holder to remove the lock status.

WHEREAS this PDP has followed the prescribed PDP steps as stated in the Bylaws, resulting in a Final Report delivered on 30 May 2011;

WHEREAS the IRTP Part B WG has reached full consensus on the recommendations in relation to each of the five issues outlined above;

WHEREAS in relation to recommendation #8, the GNSO Council resolved at its meeting on 22 June to request 'ICANN staff to provide a proposal designed to ensure a technically feasible approach can be developed to meet this recommendation. Staff should take into account the IRTP Part B WG

deliberations in relation to this issue (see IRTP Part B Final Report). (IRTP Part B Recommendation #8). The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Upon review of the proposed plan, the GNSO Council will consider whether to approve the recommendation'; WHEREAS ICANN staff developed the proposal in consultation with the IRTP Part B Working Group which was put out for public comment (see http://www.icann.org/en/public-comment/irtp-b-staff-proposals-22nov11-en.htm);

WHEREAS no comments were received as part of the public comment forum and the proposal was submitted to the GNSO Council;

WHEREAS on 10 January 2012, the IPC has provided its comments to ICANN staff proposal (as described in http://gnso.icann.org/mailing-lists/archives/council/msg12555.html);

WHEREAS ICANN staff has provided an updated proposal based on the IPC comments (as described in http://gnso.icann.org/mailing-lists/archives/council/msg12600.html);

WHEREAS the GNSO Council has reviewed and discussed the ICANN Staff proposal in relation to IRTP Part B recommendation #8.

RESOLVED, the GNSO Council recommends to the ICANN Board of Directors that it adopts and implements IRTP Part B recommendation #8 and the related ICANN Staff updated proposal (as described in http://gnso.icann.org/drafts/irtp-recommendation-8-proposal-26jan12-en.pdf).

ANNEX A – STAFF PROPOSAL ON IRTP PART B RECOMMENDATION #8

Inter-Registrar Transfer Policy Part B - Recommendation #8

Standardizing and Clarifying WHOIS status messages

The Request: 'Prior to the consideration of approval of the recommendation regarding the standardizing and clarifying WHOIS status messages regarding Registrar Lock status, the GNSO Council requests ICANN staff to provide a proposal designed to ensure a technically feasible approach can be developed to meet this recommendation. Staff should take into account the IRTP Part B WG deliberations in relation to this issue (see IRTP Part B Final Report). (IRTP Part B Recommendation #8). The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Upon review of the proposed plan, the GNSO Council will consider whether to approve the recommendation.' (See Resolution 20110622-1)

Background: The IRTP Part B WG recommended standardizing and clarifying WHOIS status messages regarding Registrar Lock status. The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Based on discussions with technical experts, the IRTP Part B WG does not expect that such a standardization and clarification of WHOIS status messages would require significant investment or changes at the registry/registrar level.

Proposal: ICANN Staff agrees that the standardization and clarification of WHOIS status messages does not require significant investment or changes at the registry/registrar level. As outlined in the IRTP Part B Final Report, it is possible to associate each EPP status value with a message that explains the meaning of the respective status value. Registrars would be required to display a link to information on each status code directly next to the status in the output, for example: "Status: ClientLock http://www.internic.net/status/html/clientlock". This link would then direct to an ICANN controlled web page where the relevant status code information as described in the 'EPP Status Codes, what do they

mean and why should I know?'[3] is posted. ICANN will also post translations of the status information. The web page can make use of localization information from the browser the user is using to display the web page in the related language. The requirement for registries and registrars to provide this link and ensure uniformity in the message displayed could be implemented as a standalone 'WHOIS Status Information Policy' or as an addition to the IRTP. In order to avoid potential blocking or stripping out of URLs from WHOIS output for valid reasons, registrars would be required to not remove Internic.net hyperlinks (or particularly the Internic.net status hyperlink) from their WHOIS output. In addition to the link, registrars would be required to include in the WHOIS output a note that would state "For more information on WHOIS status codes, please visit Internic.net" where the link to the information would be posted.

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ANNEX B - PDP Checklist

Request for an Issue Report	http://gnso.icann.org/resolutions/#200904
Preliminary Issue Report	N/A[4]
Public Comment Forum & Report of Public Comments on Preliminary Issue Report	N/A[2]
Final Issue Report	http://gnso.icann.org/issues/transfers/irtp-report-b-15may09.pdf
Initiation of the PDP	http://gnso.icann.org/resolutions/#200906
Approval of the WG Charter	http://gnso.icann.org/resolutions/#200907
Stakeholder Group / Constituency Statements received	https://community.icann.org/display/gnsoirtpb/IRTP+Part+B
Statements from other SOs/ACs received	ALAC Statement: http://forum.icann.org/lists/irtp-b-proposed-final-report/msg00003.html
Initial Report published by WG	http://gnso.icann.org/issues/transfers/irtp-b-initial-report-29may10-en.pdf
Public Comment Forum on Initial Report & Report of Public Comments	http://forum.icann.org/lists/irtp-b-initial-report/
Additional Reports	http://gnso.icann.org/issues/transfers/irtp-b-proposed-final-report-21feb11-en.pdf
Additional Public Comment Forums & Public Consultations	http://forum.icann.org/lists/irtp-b http://forum.icann.org/lists/irtp-b-proposed-final-report/ http://brussels38.icann.org/node/12502 http://svsf40.icann.org/node/22083
Final Report published by WG	http://gnso.icann.org/issues/transfers/irtp-b-final-report-30may11-en.pdf

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[4] Not applicable as this PDP was conducted under the GNSO PDP rules that applied prior to 8 December 2011

Approval of Final Report and Recommendations by GNSO Council	http://gnso.icann.org/resolutions/#201202