

The Collected Views of the Registrar Constituency Pertaining to the Staff Paper Entitled “The Points of Clarification of the Inter-Registrar Transfer Policy”.

*Comments to ross@tucows.com,
on behalf of the GNSO Registrar Constituency
1/29/2008*

The following statements represented the collected views of participants in the ICANN GNSO Registrar Constituency pertaining to the staff paper referenced. This document is not an exhaustive statement of the entirety of the views of the constituency membership, nor does it constitute a formal policy position of the constituency. This document simply reflects the views of those registrars who chose to make written submissions in response to the Council’s call for submissions.

Note that comments were received from MarkMonitor after deadline for submissions and after the summary of comments had already been prepared. The comments of MarkMonitor should be given equal weight to all other submissions made, even though they were not specifically contemplated during the summary of submissions.

Ref. <http://gns0.icann.org/drafts/Transfer-Denial-Clarifications-23aug07.pdf>

Summary of Views of the Constituency Participants

1. Denials for Non-payment

There is support for the proposed clarifications, specifically, “that a name be transferred after expiry, provided that payment has been received by the registrar, for the registration term immediately preceding the expiry”.

One registrar noted that “the proposed changes ... seem to imply that the Auto-Renew Grace Period is mandatory. It isn't, it is a period offered by the registry to the registrar. How the registrar chooses to implement it, or not, varies from registrar to registrar. That's as it should be in a competitive market. So we need to be careful not to create a situation where many registrars feel there is no value in a grace period of any length, and names end up in the RGP immediately on expiry.”

2. Lock/Unlock Measures

There is support for the proposed clarifications, namely that an objective standard be set for defining “readily accessible and reasonable means” and specifically that this standard be consistent with that established for providing auth-info codes elsewhere in the current policy.

There also is support for the proposition that it may be reasonable for registrants to elect to have additional verification requirements before a lock is lifted in order to secure domain names and prevent domain name hijackings.

3. 60 Days – Initial Registration period

There is support for the proposed clarification that the 60 days applies starting from the creation date of the domain name.

4. 60 Days – Previous Transfer

There is support for the proposed clarification, specifically;

“Transferred” shall mean that an inter-registrar transfer, or transfer to the Registrar of Record has occurred in accordance with the procedures of this policy.

It was also suggested that this could be widened to take into account specific situations where the registrant of a domain name has been legally and duly changed. However, this would not include instances where a registrant has simply updated their existing contact information or credentials and no actual change of registrant had taken place.

One registrar noted that the policy discussion pertaining to bulk transfers is out of scope for this specific series of clarifications and would benefit from broader input from the ICANN community through a separate policy development process.

Exhibit A – Full Text of Registrar Comments

Comments from Bruce Tonkin, Melbourne IT

1) Regarding Denial for non-payment

-support the original TF intent

-ie a name may be transferred after expiry, provided payment has been received for the term leading up to that expiry.

-for Melbourne IT we would generally require the registrant to explicitly release a name from registrar-lock during that period. This helps establish that the registrant is currently with Melbourne IT and is making a choice to move to another registrar. Some of the misleading renewal notices have implied that the registrant is simply paying the invoice from their current supplier.

(2) lock/unlock measures

I support the proposed clarification that the standard for reasonable measures I no stricter than measures to change contact details or name server details

(3) 60 days-initial registration period

I support the proposed clarification-that the 60 days applies from the creation date.

(4) 60 days-previous transfer

I support the proposed clarification.

I am OK with widening this to take into account situations where the legal registrant of a domain name is changed (as compared to changing an email address). This would be a REGISTRANT transfer. This would relate to a change in the name or organisation field of the registrant contact object. I do not support the interpretation that the 60 days applies after a change to email address, as often the change of email address is associated with updating credentials as a pre-cursor to allowing a transfer away.

Comments from Paul Diaz, Network Solutions

Network Solutions recognizes that domain hijacking and fraud are serious problems for our industry. We also believe that ICANN's current Inter-Registrar Transfer Policy fails to protect registrants from such abuse. In fact, the Policy has failed registrants even when it had been established that a domain name was compromised prior to a transfer.

In order to provide our customers more security and protect them from unauthorized account changes or transfer attempts, Network Solutions locks domain names for 60 days after a change in Registrant and/or Administrative Contact information. We believe that our business practice is entirely consistent with the Transfer Policy, including this section now under PDP review for "clarification":

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.

We provide a readily accessible and reasonable means to remove the lock once the transfer requestor has verified his or her identity. The customer can contact Network Solutions' 24x7 Customer Service and after clearly establishing his or her identity as the original Registrant or Administrative Contact proceed with the transfer request. Alternatively, the customer can choose to wait until the lock period expires and then transfer the domain. Either scenario meets the terms of the Transfer Policy.

The 60-day lock provides an important security precaution that is otherwise missing from the Transfer Policy. While this may not have direct bearing on the narrowly focused work of the current PDP, it is an important issue for Network Solutions and our customers. Our practice gives the legal registrant a chance to notice the unauthorized changes to their account and contact us before their domain has been stolen or sold. It also gives Network Solutions an opportunity to prevent other names from being hijacked by the same fraudster using the same *modus operandi*.

Finally, we also should note that the current PDP is only focused on lock/unlock procedures. While the original Task Force recognized that further policy work was needed regarding what to do when there are changes to Whois contact information "simultaneous to transfer or within a period after transfer" (see <http://gns0.icann.org/drafts/Transfer-Policy-Issues-23aug07.pdf>), this issue is not part of the current PDP. While this issue may be addressed in the future, our current practice is not a subject for review under the terms of the current PDP.

Comments from Tim Ruiz, The GoDaddy Group

Specific comments on the suggested changes:

1. Denial for nonpayment (reason 5)

The concern I have with the proposed changes is that they seem to imply that the Auto-Renew Grace Period is mandatory. It isn't, it is a period offered by the registry to the registrar. How the registrar chooses to implement it, or not, varies from registrar to registrar. That's as it should be in a competitive market. So we need to be careful not to create a situation where many registrars feel there is no value in a grace period of any length, and names end up in the RGP immediately on expiry.

2. Lock/unlock procedures (reason 7)

There needs to be an exception made here for situations similar to what's described in reason 6: Express written objection to the transfer from the Transfer Contact. (e.g.-email, fax, paper document or other processes by which the Transfer Contact has expressly and voluntarily objected through opt-in means).

Some registrars, including Go Daddy, have products/services that a customer may opt-in to at the time of registration. The whole point of it is additional security and safety. So turning it off may be more complicated than performing other functions, but the customer has chosen the more complicated option.

There needs to be an allowance for the registrant to choose something else, and for the registrar to be able to provide it.

3. 60 days of initial registration (reason 8)

No comment.

4. 60 days of previous transfer (reason 9)

No comment.

Comments from Ross Rader, Tucows Inc.

Tucows agrees with the clarifications presented in the Staff paper and urges the GNSO Council to implement these simple policy clarifications as quickly as possible and end current registrant confusion and the continued loss of domains.

Tucows is a long time participant in the Inter-registrar transfer policy development processes. Ross Rader was a co-chair of the original DNSO working group and has continued on with a high level of involvement in the GNSO transfer policy discussion. We believe we are especially qualified to speak on the historical intent of the original working group and the subsequent challenges in instantiating these requirements as functional policy.

The root of the confusion stems from a feature of the DNSO policy development process which required ICANN staff, not the DNSO, to formulate the final statements of policy and incorporate them within the various operating agreements after the policy requirements had been recommended to the ICANN Board by the DNSO Council. With the advent of the GNSO, this process changed. Policy recommendations of the GNSO that are approved by the ICANN Board of Directors are now incorporated in the operating agreements by reference.

ICANN's Inter-Registrar Transfer Policy was agreed to during a time of transition. Operational details are often overlooked in such circumstances. In this case, the policy was never "translated" into a coherent statement of policy by staff as had been agreed to. This is most likely due to a change in ICANN's CEO and also its General Counsel around the time the policy was adopted. This not intended to assign blame, but rather, to point out that by current standards, implementation of this policy is incomplete.

The weakness of this implementation has led to confusion amongst staff, registrars, registries and registrants. Unfortunately, this confusion is also being exploited and is leading to the loss of domain names by registrants on a regular basis. The ICANN Community must take these losses seriously and work quickly to fully implement a functional statement of policy on this subject.

Regarding "Denial for Non-Payment".

Registrars should permit the transfer of domain names to another registrar after a domain name has expired, provided that they have received payment for the immediately preceding registration period. We fully support the specific clarifications outlined in the staff paper on this subject.

Regarding "Lock/unlock measures".

The original task force intention concerning this policy requirement was to ensure that Registrants could easily unlock their domain names. At the time, domain names were being locked with no apparent unlock mechanisms. There

was explicit discussion, as indicated in the staff paper, that if Registrars were using the lock mechanism, that the unlock mechanism be “reasonable” and “readily accessible”. It is highly important that these terms be qualified in order to finally implement this policy properly. We fully support the clarifications in the staff paper.

Regarding “60 days – Initial Registration Period”

Tucows fully supports the suggested clarification in the staff paper. It is fully consistent with the intention of the original working group.

Regarding “60 days – Previous Transfer”

Tucows fully supports the suggested clarification in the staff paper. It is fully consistent with the intention of the original working group and implementation review group.

We note that the issue of inclusion or non-inclusion of this clarification as it relates to bulk transfers was not contemplated in the original or ensuing policy discussions. This is a highly important issue, but it should have the benefit of full community deliberation prior to any implementation as policy. We encourage the GNSO Council to raise this as a separate matter for policy development and not address it as part of these clarifications.

We thank the Council for this opportunity to comment on this important matter and look forward to an expedient and productive policy development process.

Comments from Margie Milam, MarkMonitor, Inc.

[editors note: These comments were received after deadline for submissions and after the summary of comments had already been prepared. These comments should be given equal weight to all other submissions made, even though they were not specifically contemplated during the summary of submissions.]

MarkMonitor agrees with the clarifications spelled out in the Staff Paper and urges the GNSO Council to support their implementation as quickly as possible. In addition, MarkMonitor would like to make the following specific observations:

Lock/unlock procedures (reason 7)

MarkMonitor believes that it is appropriate to spell out the reasons that a registrar should lock/unlock a domain name in order to facilitate legitimate transfers and competition among registrars. It is important that ICANN's policy provide the registrant with the choice, at any time during the registration term, to change registrars if it is unhappy with the level of customer service, prices, or additional services offered by its current registrar. Consequently, ICANN's policy should clarify that any registrant, at any time may request that a domain name be unlocked, notwithstanding any election or opt-in mechanism selected at the time of registration.

60 Day- Registrar Transfer

MarkMonitor supports the clarification that this policy applies only to transfers among registrars. MarkMonitor does not support extending this policy to registrant transfers or to changes in the registrant's WHOIS contacts, as this would impose unnecessary delays in inter-registrar transfers and in the significant secondary market for domain resales.