

Executive Summary of the Initial Report on the Inter-Registrar Transfer Policy - Part D Policy Development Process

STATUS OF THIS DOCUMENT

This is the Executive Summary of the Initial Report on IRTP Part D PDP, prepared by ICANN staff for submission to the GNSO Council on 3 March 2014. A Final Report will be prepared by the Working Group and ICANN staff following review of public comments on this Initial Report.

Note on Translations

This document has been translated from English in order to reach a wider audience. While the Internet Corporation for Assigned Names and Numbers (ICANN) has made efforts to verify the accuracy of the translation, English is the working language of ICANN and the English original of this document is the only official and authoritative text. The original English document can be found here:

<http://gnso.icann.org/en/issues/transfers/irtp-d-initial-03mar14-en.pdf>

TABLE OF CONTENTS

1. EXECUTIVE SUMMARY	3
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1. Executive Summary

1.1 Background

- The [Inter-Registrar Transfer Policy](#) (IRTP) provides the policy framework for domain name transfers between registrars, and has recently added provisions for transfers between registrants. IRTP also provides standardized requirements for registrar handling of transfer requests. The policy is an existing community consensus policy that was implemented in late 2004 and has been revised several times since then.¹
- The IRTP Part D Policy Development Process (PDP) is the fourth and final PDP of this series of revisions.
- The GNSO Council [resolved](#) at its meeting on 17 October 2012 to launch an Issue Report on IRTP Part D,

“which should include all the remaining issues identified by the original transfers Working Groups as well as the additional issue identified by the IRTP Part C WG, namely:

- Whether reporting requirements for registries and dispute providers should be developed, in order to make precedent and trend information available to the community and allow reference to past cases in dispute submissions
- Whether additional provisions should be included in the TDRP (Transfer Dispute Resolution Policy) on how to handle disputes when multiple transfers have occurred;
- Whether dispute options for registrants should be developed and implemented as part of the policy (registrants currently depend on registrars to initiate a dispute on their behalf);
- Whether requirements or best practices should be put into place for registrars to make information on transfer dispute resolution options available to registrant;
- Whether existing penalties for policy violations are sufficient or if additional provisions/penalties for specific violations should be added into the policy;
- Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need of FOAs.”

¹ IRTP A: <http://gnso.icann.org/en/group-activities/inactive/2008/irtp>; IRTP B: <http://gnso.icann.org/en/group-activities/active/irtp-b>; IRTP C: <http://gnso.icann.org/en/group-activities/active/irtp-c>

1.2. Deliberations of the Working Group

- The IRTP Part D Working Group started its deliberations on 25 February 2013 where it decided to conduct its work through combination of weekly conference calls and conversation on a publicly-archived email list [insert link].
- The Working Group also met face-to-face during the ICANN Conferences in Beijing, Durban and Buenos Aires
- Section 5.2 provides an overview of these deliberations.

1.3 WG Preliminary Recommendations

Proposed Recommendation to Charter Question A

Recommendation #1: The WG recommends that reporting requirements be incorporated into the TDRP policy. Outcomes of all rulings by Dispute Resolution Providers² should be published on Providers' website, except in exceptional cases. The Group recommends publishing reports that follow the example of the Asian Domain Name Dispute Resolution Centre (ADNDRC).³ These reports should include at a minimum: a) Information about parties involved in the dispute; b) The full decision of the case; c) The date of the implementation of the decision

Recommendation #2: The WG recommends that the TDRP be amended to include language along the lines of this revised version of the UDRP: 'The relevant Dispute Resolution Provider shall report any decision made with respect to a transfer dispute initiated under the TDRP. All decisions under this Policy will be published in full over the Internet, except when a Dispute Resolution Panel determines, in an exceptional case, to redact portions of its decision. In any event, the portion of any decision determining a complaint to have been brought in bad faith shall be published.'

Proposed Recommendation to Charter Question B

Recommendation #3: The WG recommends that the TDRP be amended as follows: "Transfers from a Gaining Registrar to a third registrar, and all other subsequent transfers, are null and void if the Gaining Registrar acquired sponsorship from the Registrar of Record through an invalid transfer,**

² The Working Group recommends in Charter question C to remove the Registry as the first dispute resolution layer of the TDRP. Therefore, despite wording of Charter question A, no reporting requirements for the Registries are included here.

³ See four ADNDRC Reports on TDRP decisions: http://www.adndrc.org/mten/TDRP_Decisions.php?st=6

as determined through the dispute resolution process set forth in the Transfer Dispute Resolution Policy.”*

Recommendation #4: The WG recommends that a domain name be returned to the original Registrar of Record if it is found through a TDRP procedure that a non-IRTP compliant domain name transfer has occurred. The TDRP as well as guidelines to registrars, registries and third party dispute providers should be modified accordingly.

Recommendation #5: The WG recommends that the statute of limitation to launch a TDRP be extended from current 6 months to 12 months from the initial transfer. This is to provide registrants the opportunity to become aware of fraudulent transfers when they would no longer receive their registrar’s annual WDRP notification.

Recommendation #6: The WG recommends that if a request for enforcement is initiated under the TDRP the relevant domain should be ‘locked’ against further transfers. The TDRP as well as guidelines to registrars, registries and third party dispute providers should be modified accordingly.

**Note: The Working Group would like to encourage Public Comment on the question of whether costs would need to be refunded to registrars in case of negating/reversing transfers under a multiple-hop scenario.*

*** Note: The Working Group would like to encourage Public Comment on whether in this context there is a need to clearly define ‘invalid transfer’; and if so, how.*

Proposed Recommendation to Charter Question C

The WG does not recommend that dispute options for registrants be developed and implemented as part of the current TDRP.

Recommendation #7: The WG recommends that the GNSO ensure that IRTP-C inter-registrant transfer recommendations are implemented and include appropriate dispute-resolution mechanisms. The IRTP-C and IRTP-D Implementation Review Teams should determine whether the inter-registrant transfer use cases documented in Appendix [?] have been addressed. If there are use cases that have not been addressed by the implementation of IRTP-C-2, the Implementation Review Teams are charged with formulating a request for an Issue Report to review the remaining use cases and consider whether any additional dispute resolution mechanisms (or changes to the TDRP) should be developed. That request should then be forwarded to the GNSO Council for consideration.

Recommendation #8: The WG recommends that the TDRP be modified to eliminate the First Level (Registry) layer of the TDRP.***

Observation: The WG observes that the information on the ICANN website describing registrant options with regard to inter-registrar and inter-registrant transfers is not as clearly formulated and prominently displayed as it should be. The recommendations for Charter question D below address this issue in detail.

****NB: The Working Group would like to encourage Public Comment on the issue of whether to remove the registry layer from the TDRP.*

Proposed Recommendation to Charter Question D

Recommendation #9: The WG recommends that ICANN create and maintains a one-stop website containing all relevant information concerning disputed transfers and potential remedies to registrants. This should include: a) Improvements to the ICANN website regarding the display of information on the Inter Registrar Transfer Policy and the Transfer Dispute Resolution Policy is regularly updated; b) Links to the relevant information for registrants on the ICANN website being clearly worded and prominently displayed on the ICANN home page. This will contribute to improving visibility and content of the ICANN website that is devoted to offering guidance to registrants with transfer issues; c) ICANN Compliance clearly indicates on its FAQ/help section under which circumstances it can assist registrants with transfer disputes. This should include situations when registrants can ask ICANN Compliance to insist on registrars taking action on behalf of said registrant; d) Improvements in terms of accessibility and user-friendliness should be devoted especially to these pages:

<http://www.icann.org/en/help/dispute-resolution#transfer>

<http://www.icann.org/en/resources/registrars/transfers/name-holder-faqs>

<http://www.icann.org/en/resources/registrars/transfers/text>

Links to these registrant help-website should also be prominently displayed on internic.net and iana.org in order to assure further that registrants have easy access to information

Recommendation #10: The WG recommends that, as best practice, ICANN accredited Registrars prominently display a link on their website to this ICANN registrant help site. Registrars may choose to add this link to those sections of their website that already contains Registrant-relevant information such as the Registrant Rights and Responsibilities, the WHOIS information and/or other relevant ICANN-required links as noted under 3.16 of the 2013 RAA.

Proposed Recommendation to Charter Question E

Recommendation #11: The WG recommends that no additional penalty provisions be added to the existing policy. The WG concludes that the penalty structures introduced in the 2009 RAA and the 2013 RA are sufficiently nuanced to deal with IRTP violations.

Recommendation #12: The WG recommends that, as a matter of principle, GNSO Consensus Policy should avoid policy-specific sanctions. Rather, it is desirable that the overarching RAA and RA penalty structures be drafted in a way that assures uniformity and consistency of policy violation penalties .

Proposed Recommendation to Charter Question F

The WG does not recommend the elimination of FOAs.

1.4 Stakeholder Group / Constituency Statements & Initial Public Comment Period

A [public comment forum](#) was opened upon initiation of the Working Group activities. The public comment period ran from 14 November to 14 December 2012. One (1) [community submission](#) was received from the gTLD Registry Stakeholder Group.

The WG also requested all GNSO Stakeholder Groups and Constituencies to submit their statements on the IRTP Part D issues by circulating the SG/Constituency template (see Annex B). One (1) [contribution](#) was received from GNSO Business Community.

In addition, the WG also reached out to the country code Names Supporting Organization (ccNSO), the At-Large Advisory Committee (ALAC), the Governmental Advisory Committee (GAC) and the Security and Stability Advisory Committee (SSAC) for input, but no comments have been received so far.

The IRTP Part D WG reviewed and discussed the contributions received. Where relevant and appropriate, information and suggestions derived from the contributions received were considered as part of the WG deliberations and have been included in section 5.

1.5 Conclusions and Next Steps

The Working Group aims to complete this section for the Final Report, once public comments on this Initial Report have been received and reviewed