DRAFT
Advisory Concerning Inter-Registrar Transfer Policy

14 November 2007

The purpose of this advisory is to assist ICANN-accredited registrars and domain-name registrants in understanding how the Inter-Registrar Transfer Policy requirements apply in certain common situations, and to ensure a consistent understanding of the current policy requirements. The advisory is based on issues identified by a working group consisting of both registry and registrar representatives in the process of reviewing the policy for effectiveness. As part of the review, the group also referred a list of policy issues to the GNSO for further consideration (see http://gnso.icann.org/drafts/Transfer-Policy-Issues-23aug07.pdf).

The Inter-Registrar Transfer Policy was developed through ICANN's consensus policy development process. The 29 policy recommendations contained in the Transfer Task Force's report to the GNSO were accepted by the GNSO Council and adopted by the ICANN Board in early 2003. As instructed by the Board, ICANN staff consulted with a Transfer Assistance Group (TAG) consisting of members of the community and GNSO constituencies in order to coordinate implementation of the new transfer procedures. All ICANN-accredited registrars and unsponsored gTLD registry operators are required to follow this policy.

1. Education

ICANN's page at http://www.icann.org/transfers/text.htm#TransferDomain makes transfer information available to domain name holders. Additionally, ICANN provides a dedicated email address [transfer-questions@icann.org] for queries from the public regarding transfer of domain names. These mechanisms continue to be used regularly, recording approximately 70 questions in a month.

Registrars SHOULD make information on the transfer process clearly and easily accessible to their customers, including procedures for obtaining authInfo codes, where to take transfer-related complaints, and what the process will entail. This is in accordance with Section 1 of the policy, which provides that:

> Registrars should make reasonable efforts to inform Registered Name Holders of, and provide access to, the published documentation of the specific transfer process employed by the Registrars.

2. Dispute Resolution

Registrars should be aware of the available dispute resolution options relating to the Inter-Registrar Transfer Policy. Registrars wishing to dispute either (a)

whether a particular transfer was properly performed or (b) whether a particular transfer was properly blocked MAY file a dispute proceeding against the other registrar involved in the transfer by contacting either the relevant registry operator or a third-party dispute resolution provider (see http://www.icann.org/dndr/tdrp/approved-providers.htm). Registrars SHOULD communicate with one another to resolve any problems before filing a dispute. Registrars SHOULD also bring general compliance concerns to the attention of ICANN.

3. Form of Authorization

Registrars are reminded that standardized Forms of Authorization (FOAs) MUST be used to communicate with transfer contacts regarding authorization of each transfer request. The standardized forms for both Gaining and Losing Registrars must be used as posted at http://www.icann.org/transfers/.

The Transfers Working Group has recommended that the title of the form should be used as the subject line for an FOA that is sent via email. The subject line SHOULD read either: "DOMAIN NAME TRANSFER - Initial Authorization for Registrar Transfer," or "DOMAIN NAME TRANSFER - Confirmation of Registrar Transfer Request," depending on the form being used.

The FOAs contain both mandatory and optional material. Registrars MAY add the identity of a reseller, if desired or applicable, in the section designated. The FOA requirements do not prohibit registrars from sending marketing communications to their existing customers through separate channels.

All registrars are reminded that initiation of a transfer request without having procured a valid FOA is a violation of the Inter-Registrar Transfer Policy. As described in Section 2.2.1 of the policy:

> Transmission of a "transfer" command constitutes a representation on the part of the Gaining Registrar that the requisite authorization has been obtained from the Transfer Contact listed in the authoritative Whois database.

Additionally, registrars are reminded that requests to provide a copy of an FOA from the other registrar that was party to a transfer MUST be fulfilled within 5 days.

4. Reasons for Denial

The policy enumerates certain limited instances in which a Registrar of Record may validly deny a transfer request. These are:

1. Evidence of fraud

2. UDRP action
3. Court order by a court of competent jurisdiction
4. Reasonable dispute over the identity of the Registered Name Holder or Administrative Contact
5. No payment for previous registration period (including credit card charge-backs) if the domain name is past its expiration date or for previous or current registration periods if the domain name has not yet expired. In all such cases, however, the domain name must be put into "Registrar Hold" status by the Registrar of Record prior to the denial of transfer.
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)
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.
8. A domain name is in the first 60 days of an initial registration period.
9. A domain name is within 60 days (or a lesser period to be determined) after being transferred (apart from being transferred back to the original Registrar in cases where both Registrars so agree and/or where a decision in the dispute resolution process so directs).

Further definition on Reasons 5, 7, and 9 is provided below:

(5) Registrar Hold. This refers to "Registrar Hold" status as defined in RFC 2832, or its equivalent, "Client Hold" (see RFC 3731). This does not refer to any internal flag or status termed "hold" which a registrar may be using. Registrars MAY deny transfers for this reason (nonpayment) only if the name was in "Registrar Hold" status prior to the denial of the transfer.

(7) Lock Status. This refers to "Registrar Lock" status as defined in RFC 2832, or its equivalent, "Client Delete Prohibited/Client Update Prohibited/Client Transfer Prohibited" (see RFC 3731). This does not refer to any internal flag or status termed "lock" which a registrar may be using.

Registrars MAY deny transfers for this reason (Registrar Lock status) only if they also provide a reasonable and readily accessible means for name holders to remove the lock status. Registrars who put any names on lock status MUST also provide reasonable and readily accessible means for customers to remove the lock status.

(9) Previous Transfer. This refers to an inter-registrar transfer, or transfer to the Registrar of Record in accordance with the procedures of the Inter-Registrar Transfer Policy. A Registrar of Record MAY deny a transfer for this reason if the domain name

was transferred to its sponsorship from another registrar within the last 60 days.

ICANN has received a number of inquiries regarding Reason 5 (nonpayment). In the past, ICANN has interpreted this provision to mean that registrars may not deny transfers for this reason in cases where a domain name is within the Auto-Renew Grace Period. However, to gain more clarity, ICANN has referred this issue to the GNSO for further policy development guidance.

No reasons other than those listed in the policy are valid reasons for denial of a transfer request that has been properly initiated. A registrar who denies a transfer for another reason is in violation of the policy and subject to fees for lost disputes and/or compliance actions by ICANN.

Registrars MUST provide notice to the Registered Name Holder and the potential gaining registrar each time a transfer has been denied, including the reason for denial, in accordance with Section 3 of the Inter-Registrar Transfer Policy.

5. Transfer Contacts

ICANN provides a periodically-updated list of transfer contacts to all accredited registrars to help facilitate communications between registries, registrars, and ICANN on transfer-related matters.

As part of ensuring that all communications on the above matters are received and handled appropriately, registrars SHOULD keep their transfer-contact email addresses up to date.

This is in accordance with Section 4 of the policy:

> For purposes of facilitating transfer requests, Registrars should provide and maintain a unique and private email address for use only by other Registrars and the Registry:
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> i. This email address is for issues related to transfer requests and the procedures set forth in this policy only.
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> ii. The email address should be managed to ensure messages are received by someone who can respond to the transfer issue.
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> iii. Messages received at such email address must be responded to within a commercial reasonable timeframe not to exceed seven (7) calendar days.

Registrars may send any updates in their contact information to registrarupdates@icann.org.