GNSO Council Report to the ICANN Board

Inter-Registrar Transfer Policy Part C Policy Development Process

Executive Summary

The Generic Names Supporting Organization (GNSO) unanimously approved at its meeting on 17 October 2012 the following recommendations on the Inter-Registrar Transfer Policy (IRTP) Part C Policy Development Process (PDP):

- **Recommendation #1** – The adoption of change of registrant consensus policy, which outlines the rules and requirements for a change of registrant of a domain name registration. Such a policy should follow the requirements and steps as outlined in the section 'proposed change of registrant process for gTLDs' in the IRTP Part C Final Report.

- **Recommendation #2:** Forms of Authorization (FOAs), once obtained by a registrar, should be valid for no longer than 60 days. Following expiration of the FOA, the registrar must re-authorize (via new FOA) the transfer request. Registrars should be permitted to allow registrants to opt-into an automatic renewal of FOAs, if desired.

  In addition to the 60-day maximum validity restriction, FOAs should expire if there is a change of registrant, or if the domain name expires, or if the transfer is executed, or if there is a dispute filed for the domain name. In order to preserve the integrity of the FOA, there cannot be any opt-in or opt-out provisions for these reasons for expiration of the FOA.

  As recommended and approved as a result of the IRTP Part B PDP, Losing Registrars under IRTP-B are now required to send an FOA to a Prior Registrant. It is advised that Losing Registrars have the option to send a modified version of this FOA to a Prior Registrant in the event that the transfer is automated where the FOA would be advisory in nature.

- **Recommendation #3:** All gTLD Registry Operators be required to publish the Registrar of Record's IANA ID in the TLD's WHOIS. Existing gTLD Registry operators that currently use proprietary IDs can continue to do so, but they must also publish the Registrar of Record's IANA ID. This recommendation should not prevent the use of proprietary IDs by gTLD

Registry Operators for other purposes, as long as the Registrar of Record's IANA ID is also published in the TLD's Whois.

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.

a. A clear statement of any Successful GNSO Vote recommendation of the Council

The Generic Names Supporting Organization (GNSO) unanimously approved at its meeting on 17 October 2012 the following recommendations on the Inter-Registrar Transfer Policy (IRTP) Part C Policy Development Process (PDP):

- **Recommendation #1** – The adoption of change of registrant consensus policy, which outlines the rules and requirements for a change of registrant of a domain name registration. Such a policy should follow the requirements and steps as outlined hereunder in the section 'proposed change of registrant process for gTLDs'.

  Proposed "Change of Registrant" Process for gTLDs
  Having concluded that there are benefits in developing a standalone process for a "change of control" or "change of registrant[1]", the WG recommends the following requirements that such a change of registrant process should meet. These include:
  - Both the Prior Registrant and the New Registrant need to authorize the change of registrant. Such authorization could also be provided by the Prior Registrant in the form of pre-approval or via a proxy. However such preapprovals must be secured using a generally accepted method of authentication. As a non-limiting example, Registrars may want to consider "out of band" authentication based on information that cannot be learned from within the registrar account or publicly available resources such as Whois. The Working Group recommends that the IRTP Part C Implementation Review Team is consulted by ICANN staff as it develops the implementation plan to ensure this

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[1] In the context of the change of registrant process, the term Registrant is identical to 'Registered Name Holder' as defined in the Registrar Accreditation Agreement (RAA).

recommendation is implemented in accordance with the intention of the Working Group.

- A change of registrant cannot take place simultaneously with a change of registrar although they can be made to appear that way to registrants in a registrars users interface. If both changes need to be made, it is suggested, but not required, that the change of registrar (IRTP) be completed prior to initiating the change of registrant in order to avoid triggering the proposed 60-day inter-registrar transfer lock (see below).
- The WG also noted that any such process should not create an unfair advantage/disadvantage for any of the segments active in the domain name industry and noted that it should not prevent innovation and differentiation amongst registrars.

The Working Group also discussed extensively whether there should be any restrictions in place that would prevent a change of registrar immediately following a change of registrant (see the Initial Report) and recommends that a domain name cannot be transferred to another registrar for 60 days to protect registrants against possible harms arising from domain hijacking. However the option to opt out of this restriction (with standard notice to all registrants of the associated risks) is provided in order to meet the needs of registrants who are concerned about the negative effect on movability of domain name registrations. If a registrar chooses to offer an option for registrants to opt out, the process to remove this restriction must use a generally accepted method of authentication.

As a result of these deliberations, the WG has developed the following proposed process for a change of registrant:

STEP 0: If the Prior and New Registrants are transferring the domain to a new registrar in conjunction with this Change of Registrant process, it is suggested that they first complete the Inter-Registrar Transfer in order to avoid triggering the default 60-day lock associated with the Change of Registrant process. Note that the Inter Registrar Transfer policy is revised so as to not permit changes to Registrant information at the same time as an inter-registrar transfer. The Gaining Registrar must validate this prior to completing the transfer. (see also Note H hereunder).

STEP 1: Both Registrants authorize the change

- Either the Prior or Gaining Registrant produces and transmits Change of Registrant Credentials to the other Registrant
- The other Registrant acknowledges the receipt of credentials and authorizes the transfer

STEP 2:   Registrar determines that both Prior and New Registrant have authorized the Change of Registrant and that the domain is eligible for Change of Registrant (i.e. there are no locks or other restrictions on the domain)

STEP 3:   Registrar changes registrant

STEP 4:   Registrar notifies Prior and New Registrant of the change that has taken place

STEP 5:   Registrar places a lock on the domain to prevent Inter-Registrar transfers of the domain for 60 days, unless the Prior Registrant has opted out of this requirement after having received a standard notice as to the associated risks.

NOTES:

Note A: Change of Registrant is defined as a material change to any of the following:
- Name
- Organization
- Primary Contact Method (registrant and/or administrative contact email address)

In the case of minor updates or corrections, the registrar, in its judgment, may waive this requirement at the request of the registrant using a generally accepted method of authentication. As a non-limiting example, Registrars may want to consider "out of band" authentication based on information that cannot be learned from within the registrar account or publicly available resources such as Whois. The Working Group recommends that the IRTP Part C Implementation Review Team is consulted by ICANN staff as it develops the implementation plan to ensure this recommendation is implemented in accordance with the intention of the Working Group.

Note B: In order to be eligible for a change of registrant, the domain name registration should not be:
- Subject to UDRP

- Locked by the Registrar (with a clear mechanism for clearing the lock)
- Expired

Note C: A change of registrant can only be requested by the registrant or an authorized representative of the registrant.

Note D: Change of Registrant Credentials could be a PIN, password, string or code, including AuthInfo codes. However Registrars should note that AuthInfo codes are also generated and used in the Inter-Registrar Transfer process. A registrar can use the same AuthInfo code for the Change of Registrant process, but there may be operational and security issues that they should address if they choose to do this without resetting and reissuing the AuthInfo code first.

Note E: The Inter-Registrar Transfer Process and this Change of Registrant Process are separate and distinct – however they can be made to appear the same to Registrants if that is desirable. The key distinction between these two processes is that the first (IRTP) happens between Registrars, while this Change of Registrant (COR) process happens within a Registrar.

Note F: This process is also used in cases where the Gaining and Losing Registrants are the same – e.g. the case where a Registrant is updating information in response to a WDRP reminder.

Note G: The 60-day lock is used to "contain" the changes of Registrants within a single Registrar in order to facilitate recovery of domains that have been hijacked.

Note H: It is not currently possible to validate that Registrant information is identical during an Inter Registrar Transfer in thin registries. Thus, implementation of these policy changes in thin-registry gTLDs is contingent on either a) the implementation of uniform WHOIS data access provisions being discussed in the current round of RAA negotiations, b) an outcome of a PDP process that mandates thick WHOIS across all registries or c) some other mechanism which provides secure and reliable sharing of Registrant data between Registrars in thin-registry TLDs.

Note I: It is recommended that the change of registrant policy is incorporated as a hybrid policy, whereby the IRTP would become a Transfer Policy in which one

Part or Section details the policy for a change of registrar, and another Part or Section details the policy for a change of registrant.

- **Recommendation #2:** FOAs, once obtained by a registrar, should be valid for no longer than 60 days. Following expiration of the FOA, the registrar must re-authorize (via new FOA) the transfer request. Registrars should be permitted to allow registrants to opt-into an automatic renewal of FOAs, if desired.

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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.

b. **If a Successful GNSO Vote was not reached, a clear statement of all positions held by Council members. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the constituency(ies) or Stakeholder Group(s) that held the position;**

N/A

c. An analysis of how the issue would affect each constituency or Stakeholder Group, including any financial impact on the constituency or Stakeholder Group;

Adoption of the recommendations will require substantial changes in processes for most registrars with potential changes for gTLD registries as well, especially with respect to recommendation #3. It should be recognized that certain details have been left to be worked out and further clarified as part of the implementation process, which may require additional changes and/or costs by parties impacted by the recommendations, especially in relation to recommendation #1. However, the recommendations, if properly implemented, are expected to usefully clarify and enhance the IRTP, to the advantage of all parties concerned.

d. An analysis of the period of time that would likely be necessary to implement the policy;

Taking into account the significant changes proposed to the transfer policy as a result of recommendation #1, in addition to certain details that are intended to be worked out as part of the implementation process, staff expects that considerable consultation with the IRTP Part C Implementation Review Team as well as the broader ICANN Community will need to be undertaken to ensure a useful and implementable policy. Furthermore, as the implementation of these recommendations, especially a change of registrant policy, marks a significant change from current practice, sufficient time will need to be allocated to educate and inform affected parties about the new rules and requirements.

e. The advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor's (i) qualifications and relevant experience; and (ii) potential conflicts of interest;

N/A

f. The Final Report submitted to the Council

The IRTP Part C PDP Final Report can be found here: http://gnso.icann.org/en/issues/irtp-c-final-report-09oct12-en.pdf. Translations of the Final Report are also available (see [update once translations are available]).

g. **A copy of the minutes of the Council deliberation on the policy issue, including the all opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.**

[To be updated once available]

ADDITIONAL INFORMATION

h. **Consultations undertaken**

External

Public comment forums were held on the initiation of the PDP, the Initial Report, and the recommendations subject to Board Consideration, 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, Prague Meeting and Costa Rica Meeting). Constituency / Stakeholder Group Statements were requested, and one submission was received from the gTLD Registries Stakeholder Group (see https://community.icann.org/x/_ovbAQ). All comments received have been reviewed and considered by the IRTP Part C PDP WG (see section 6 of the IRTP Part C Final Report).

Internal

Regular updates were provided to the different ICANN departments potentially affected by these recommendations (e.g. compliance, registrar relations teams) under consideration and potential issues were raised with the IRTP Part C PDP Working Group.

i. **Summary and Analysis of Public Comment Forum to provide input on the IRTP Part C Recommendations adopted by the GNSO Council prior to ICANN Board consideration**

j. Implementation Recommendations for Recommendation #1 as developed by the IRTP Part C PDP Working Group

The IRTP Part C WG has provided detailed implementation guidance as part of recommendation #1 in addition to outlining case studies (see Annex G of the IRTP Part C Final Report) that cover the different scenarios for a change of registrant that should assist in the implementation of this recommendation. In addition, the GNSO Council, upon the recommendation of the IRTP Part C WG, has agreed to the formation of an IRTP Part C Implementation Review Team following the adoption of the IRTP Part C Recommendations by the ICANN Board to assist staff in the implementation of these recommendations.

k. Impact / Implementation Considerations from ICANN Staff

As noted above, taking into account the significant changes proposed to the transfer policy, in addition to certain details that are intended to be worked out as part of the implementation process, staff expects that considerable consultation with the IRTP Part C Implementation Review Team as well as the broader ICANN Community will need to be undertaken to ensure a useful and implementable policy. For example:

- In relation to recommendation #1, it is mentioned that preapprovals and/or opt-outs need to be done using a generally accepted method of authentication. If this is intended to mean that the policy should specify certain minimum requirements and/or examples of what 'accepted methods of authentication' may be, this would be pretty straightforward. However, if it is the intention that as part of the implementation such an authentication method is designed that would become part of the policy, this may prove to be much more complicated and require additional expertise and resources to accomplish;
- Further clarification may be needed on some of the terms used as some are currently not consistent with those in the RAA or not consistently used;
- No specific mention is made how disputes resulting from a change of registrant should be handled, but it may be worth considering whether a modification of the Transfer

Dispute Resolution Policy (TDRP) would be in order (something that may also be considered as part of the upcoming IRTP Part D);

- Are there any specific issues that may arise from proxy and privacy registrations in relation to the change of registrant policy?

These are just some examples of issues ICANN Staff hopes to receive further clarification on as a result of its collaboration with the IRTP Part C Implementation Review Team in developing the proposed implementation plan.