Communication to GNSO on Policy Issues Arising from Transfer Review

Introduction

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. Full text of the Inter-Registrar Transfer Policy is available at http://www.icann.org/transfers/.

In accordance with the Transfer Task Force's recommendation, the implementation notes which accompanied the announcement of the policy (see http://www.icann.org/announcements/advisory-12jul04.htm) contained a requirement that the policy be reviewed at intervals for effectiveness. The GNSO formed a Transfers Working Group in June 2005, consisting of registry and registrar representatives to work with staff in completing the review. The group identified a list of issues in relation to how the policy was working in practice, and decided that these issues fell into two categories: (1) areas of confusion which could be clarified by issuing an Advisory, and (2) policy issues which would need to be addressed by the GNSO. The Advisory has been posted at <link>, and this communication is intended to delineate for the GNSO the areas in which it may be beneficial to perform further work.

Dispute Resolution

The Transfer Dispute Resolution Policy (TDRP) is the mechanism for resolving disputes that occur under the Inter-Registrar Transfer Policy. A registrar who believes that a domain name transfer was performed or denied in violation of the policy may file a dispute against the other registrar either at the registry level or with a third-party dispute resolution provider. Issues identified by the working group which may need to be addressed by further policy work in the GNSO include:

1. 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).
2. Whether review of registry-level dispute decisions is needed (some complaints exist about inconsistency).
3. Whether additional provisions on undoing inappropriate transfers are needed, especially with regard to disputes between a Registrant and

Admin Contact. The policy is clear that the Registrant can overrule the AC, but how this is implemented is currently at the discretion of the registrar.

4. Whether additional provisions should be included in the TDRP on how to handle disputes when multiple transfers have occurred.
5. 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.
6. Whether requirements or best practices should be put into place for registrars to make information on transfer dispute resolution options available to registrants.

Form of Authorization (FOA)

According to the policy, the Gaining Registrar is required to obtain the FOA from the Registrant or Administrative Contact before initiating a transfer request. The Registrar of Record also has the option to send an FOA to confirm the transfer request. Policy issues relating to the FOA include:

1. Whether there is need for other options for electronic authentication (e.g., security token in FOA) due to security concerns on use of email addresses (potential for hacking or spoofing).
2. Whether provisions on time-limiting FOAs should be implemented to avoid fraudulent transfers out. For example, if a Gaining Registrar sends and receives an FOA back from a transfer contact, but the name is locked, the registrar may hold the FOA pending adjustment to the domain name status, during which time the registrant or other registration information may have changed.
3. Whether requirements should be in place for Registrars of Record to send an FOA, and/or receive the FOA back from Transfer Contact before acking a transfer.

Whois Issues

The working group is aware that there is already a Policy Development Process in place within the GNSO on the topic of Whois. Related issues to the transfer policy include:

1. Whether there could be a way for registrars to make Registrant Email Address data available to one another. Currently there is no way of automating approval from the Registrant, as the Registrant Email Address is not a required field in the registrar Whois. This slows down and/or complicates the process for registrants, especially since the Registrant can overrule the Admin Contact.

2. Whether additional provisions relating to transfer of registrations involving various types of Whois privacy services should be developed as part of the policy.
3. Whether additional requirements regarding Whois history should be developed, for change tracking of Whois data and use in resolving disputes.

Other

1. Whether special provisions are needed for change of registrant simultaneous to transfer or within a period after transfer. The policy does not currently deal with change of registrant, which often figures in hijacking cases.
2. Whether existing penalties for policy violations are sufficient or if additional provisions/penalties for specific violations should be added into the policy.
3. 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).
4. Whether the process could be streamlined by a requirement that registries use IANA IDs for registrars rather than proprietary IDs.
5. Whether standards or best practices should be implemented regarding use of Registrar Lock status (e.g., when it may/may not, should/should not be applied).
6. Whether registrants should be able to retrieve authInfo codes from third parties other than the registrar.
7. Whether the policy should incorporate provisions for handling "partial bulk transfers" between registrars – that is, transfers involving a number of names but not the entire group of names held by the losing registrar.