

Staff Report of Public Comment Proceeding

Preliminary Issue Report on a Policy Development Process to Review the Transfer Policy

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Public Comment Proceeding

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Section I: General Overview and Next Steps

This Public Comment proceeding seeks to obtain community input on the Preliminary Issue Report on a Policy Development Process to Review the Transfer Policy.

Current Status: In accordance with the GNSO Policy Development Process (PDP) rules, ICANN org published the Preliminary Issue Report for Public Comment to allow for community input the Preliminary Issue Report. In particular, ICANN org sought specific input on the draft policy questions proposed in Section 3.5 of the Preliminary Issues Report, as well as the text provided in the draft Preliminary Charter in Annex A.

This Preliminary Issue Report on a Policy Development Process to Review the Transfer Policy examines, et.al, the issues identified in the Transfer Policy Initial Scoping Paper and includes:

- a. Gaining & Losing Registrar Form of Authorization ("FOA")
- b. Auth Code Management
- c. Change of Registrant
- d. Transfer Emergency Action Contact ("TEAC")
- e. Transfer Dispute Resolution Policy ("TDRP")
- f. Reversing/NACKing Transfers
- g. ICANN-Approved Transfers
- h. EPDP Rec. 27

Section 3 of the Preliminary Issues Report explores the above-referenced issues individually and provides references to documents and processes that could inform future policy work.

Next Steps: Following careful review of the public comments received, ICANN org will update the Preliminary Issue Report and submit a summary of the comments received together with the Final Issue Report to the GNSO Council for its consideration and potential action.

Section II: Contributors

At the time this report was prepared, a total of three (3) community submissions had been posted to the forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by
Hosting Concepts B.V. d/b/a Openprovider	Siemen Roorda
Tucows	Sarah Wyld
Registrar Stakeholder Group	Zoe Bonython

Section III: Summary of Comments

General Disclaimer: This section intends to summarize broadly and comprehensively the comments submitted to this public comment proceeding but does not address every specific position stated by each contributor. The preparer recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

The three commenters, Openprovider, Tucows, and the Registrar Stakeholder Group all supported the topics identified in Preliminary Issue Report, noting all topics identified should be further considered by the eventual Working Group. Namely, the commenters supported the Working Group reviewing:

- a. Gaining & Losing Registrar Form of Authorization ("FOA")
- b. Auth Code Management
- c. Change of Registrant
- d. Transfer Emergency Action Contact ("TEAC")
- e. Transfer Dispute Resolution Policy ("TDRP")
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The substantive feedback received on each of the above topics is summarized below.

Gaining and Losing Registrar Form of Authorization ("FOA")

Openprovider noted the Gaining FOA is no longer necessary as it complicates the transfer process, particularly for registrars who operate under the wholesale model. Openprovider went on to note, "[w]e experience far lower [inter-registrar transfer] failure rates since the Temporary Specification allowed us to abandon the Gaining FOA in most cases. At the same time, we have not noticed any change in illegally transferred domain names because of abandoning the Gaining FOA."

Openprovider also noted the Losing FOA requirement should be removed, opting instead for a "transferred out notification". Openprovider suggested the notification instead of the FOA because the five-day waiting period is confusing for many registrants. Changing the FOA into a required notification allows the registrant to be informed of the transfer but prevents the delay, confusion, and associated frustration caused by the Losing FOA. Openprovider also

noted there should be a clear process for auditing and reversing an inter-registrar transfer in the event of a complaint.

Tucows noted that Question A1 in the “Gaining Registrar FOA and Losing Registrar FOA” section of the Preliminary Issues Report is confusingly worded because the second part of the question is based on a yes/no response to the first part of the question, and the first part of the question is not a yes/no question.

AuthInfo Codes

Openprovider commented that, given the growing value and importance of domain names, the AuthInfo process should be reviewed. In particular, it may be prudent for the eventual working group to consider additional security features for the AuthInfo code, such as a required minimum syntax and a limited validity period.

Openprovider additionally noted that (1) AuthInfo codes provide a sufficient paper trail for compliance auditing purposes, since many ccTLD registries rely exclusively on AuthInfo codes, (2) the current five-day service level agreement (SLA) for registrar provision of the AuthInfo code is appropriate, (3) the AuthInfo Code should be valid for 14-30 days and should be set by the registry, and (4) there should be a standard process through which a registrant can get the AuthInfo from the registry directly, without involvement of the current registrar since sometimes a losing registrar is uncooperative or out of business.

Change of Registrant

Openprovider noted the original goal of implementing Change of Registrant requirements was to protect domain name registrants against unauthorized changes to their domain name accounts; however, many registrars implemented a designated agent to auto-approve the change for both the previous and new registrant. Openprovider suggests a simple notification to the previous and new registrant, together with clear policies to review and revert unauthorized changes, should be sufficient. Lastly, Openprovider suggested “no locks, no opt-ins or opt-outs, no confirmations, no designated agents.”

ICANN-Approved Transfers

All three commenters noted the topic of ICANN-approved transfers should be further explored by the eventual working group. Specifically, Openprovider noted, “the current scope of ICANN-Approved Transfers is restricted to ‘all registrations’ and it is restricted to ‘acquisition’ of the registrar or its assets, ‘lack of accreditation’ and lack of authorization with the Registry Operator. [. . .]. [W]e urgently request ICANN to develop a policy that allows for easier and faster voluntary bulk transfers between two registrars, similar to what many ccTLD registries already offer. At this moment, registrants and resellers that want to move their domain portfolio to another registrar are hindered by the bureaucratic processes, high fees, lack of standardization and lack of registry’s cooperation. [. . .] [W]e consider the current policy contrary to the registrants’ benefits and contrary to the above-cited text from §1.1. In other words: it strongly limits competition and free trade.” Openprovider went on to suggest a proposed voluntary bulk transfer process wherein the gaining and losing registrar could be free to reach a mutual agreement regarding the terms of the partial or full transfer, and the registry operator would be free to define the price for such transfer. In other words, the price for such transfer would not be mandated by an ICANN consensus policy.

Tucows also expressed a desire for the eventual working group to review the policy language for ICANN-approved transfers, noting “bulk transfers between registrars should be added to the list of topics which this Working Group is chartered to address. Policy which supports transferring domains in bulk at this time is limited to the BTAPPA process, which does not apply in most scenarios; as such, registrars and registrants would benefit from a more universal policy not tied to an acquisition.” The Registrar Stakeholder Group went on to note, “although some registry operators utilize Bulk Transfer After Partial Portfolio Acquisition (BTAPPA), in order to provide this service, registry operators must first add it as an additional registry service through the Registry Services Evaluation Policy (RSEP). Because of these complicating factors, there may be differences between registry operators for bulk transfers, and not all registry operators may offer bulk transfers. The standardization of the bulk transfer process between registrars would allow registrars who are also acting as resellers to more efficiently consolidate their domains under management onto a single IANA credential, should they so desire. It may also harmonize divergent processes between registries, adding transparency and efficiency to the DNS ecosystem.”

Working Group Model

Tucows noted it is open to using the “member/alternate/observer” model for the eventual Transfer Policy Working Group (as described in the draft charter), provided the membership model be included in the eventual PDP review process to evaluate the efficacy of this model.

Section IV: Analysis of Comments

General Disclaimer: This section intends to provide an analysis and evaluation of the comments submitted along with explanations regarding the basis for any recommendations provided within the analysis.

ICANN org staff thanks the commenters for the detailed feedback on the Preliminary Issue Report.

Policy Support Staff will be incorporating the above feedback related to the draft charter topics and text of the charter questions into the updated draft charter, which will be forwarded to the GNSO Council for its consideration. With respect to the substantive answers received in response to the draft charter questions, Policy Support Staff will provide this feedback to the eventual working group for its consideration.