

ANNEX
GNSO Council Report to the ICANN Board
Inter-Registrar Transfer Policy Part B Policy Development Process

Executive Summary

The Generic Names Supporting Organization (GNSO) unanimously [approved](#) at its meeting on 22 June 2011 the following recommendations on the Inter-Registrar Transfer Policy (IRTP) Part B Policy Development Process (PDP):

- Requiring Registrars to provide a Transfer Emergency Action Contact (TEAC). To this end, proposed language to modify section 4 (Registrar Coordination) and Section 6 (Registry Requirements) of the Inter-Registrar Transfer Policy has been provided (see Annex for further details). The TEAC is a mechanism to facilitate urgent communications relating to transfers, with a goal to quickly establish real-time communication between registrar representatives in case of emergency (such as a transfer as a result of a domain name hijacking) so that the registrar can take steps to resolving the issue.
- Modifying section 3 of the IRTP (<http://www.icann.org/en/transfers/>) to require that the Registrar of Record/Losing Registrar be required to notify the Registered Name Holder/Registrant of the transfer out. Requiring this notification would alert the registrant at an earlier stage that a transfer has been requested, which would bring any potential conflicts to light before a transfer has been completed, potentially reducing the number of conflicts between the admin contact and registrant that would require undoing a transfer.
- Modifying Reason for Denial #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”) to make the text clearer and reduce the potential for differing interpretations. The proposed replacement language tailors this Denial reason to explicitly address registrar-specific locks and make clear that the registrant must give some sort of informed opt-in express consent to having such a lock applied, and the registrant must be able to have the lock removed upon reasonable notice and authentication.

- Deleting denial reason #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.”) as a valid reason for denial under section 3 of the IRTP, as it is technically not possible to initiate a transfer for a domain name that is locked, making this denial reason obsolete.

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.

The policy recommendations above, if approved by the Board, will impose new obligations on certain contracted parties. The GNSO Council’s unanimous vote in favor of these items exceeds the voting threshold required at Article X, Section 3.9.f of the ICANN Bylaws regarding the formation of consensus policies.

Furthermore, the GNSO Council requested staff support for additional work on two other recommendations: one relating to standardizing and clarifying WHOIS status messages regarding Registrar Lock status, and; a second one relating to a new provision for the IRTP on when and how domains may be locked or unlocked. In addition, GNSO Council recommended the promotion by ALAC and other ICANN structures of the measures outlined in the recent report of the Security and Stability Advisory Committee on A Registrant's Guide to Protecting Domain Name Registration Accounts (SAC 044).

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 22 June 2011 the following recommendations on the Inter-Registrar Transfer Policy (IRTP) Part B Policy Development Process (PDP):

- 1) Requiring Registrars to provide a Transfer Emergency Action Contact (TEAC). To this end proposed language to modify section 4 (Registrar Coordination) and Section 6 (Registry Requirements) of the Inter-Registrar Transfer Policy has been provided (see Annex for further details). The Transfer Emergency Action Contact (TEAC) is a mechanism to facilitate

urgent communications relating to transfers. The goal of the TEAC is to quickly establish real time communication between registrar representatives in case of emergency such as a transfer as a result of a domain name hijacking so that the registrar can take steps to resolving the issue. The TEAC only addresses establishing that communication not resolving any disputes that may arise for which other policies and procedures apply.

- 2) Modifying section 3 of the IRTP to require that the Registrar of Record/Losing Registrar be required to notify the Registered Name Holder/Registrant of the transfer out. The Registrar of Record has access to the contact information for the Registrant and could modify their systems to automatically send out the Standardized Form for Losing Registrars ("Confirmation FOA") to the Registrant. Requiring this notification would alert the registrant at an earlier stage that a transfer has been requested, which as a result would bring any potential conflicts to light before a transfer has been completed and therefore might reduce the number of conflicts between the admin contact and registrant that would require undoing a transfer.
- 3) Modifying Reason for Denial #6 as follows: Express objection to the transfer by the authorized Transfer Contact. Objection could take the form of specific request (either by paper or electronic means) by the authorized Transfer Contact to deny a particular transfer request, or a general objection to all transfer requests received by the Registrar, either temporarily or indefinitely. In all cases, the objection must be provided with the express and informed consent of the authorized Transfer Contact on an opt-in basis and upon request by the authorized Transfer Contact, the Registrar must remove the lock or provide a reasonably accessible method for the authorized Transfer Contact to remove the lock within five (5) calendar days. The current language of denial reason #6 is not clear and leaves room for interpretation especially in relation to the term 'voluntarily' and it is therefore recommended that this language is expanded and clarified to tailor it more to explicitly address registrar-specific (i.e. non-EPP) locks in order to make it clear that the registrant must give some sort of informed opt-in express consent to having such a lock applied, and the registrant must be able to have the lock removed upon reasonable notice and authentication.
- 4) Deleting denial reason #7 as a valid reason for denial under section 3 of the IRTP as it is technically not possible to initiate a transfer for a domain name that is locked, and hence cannot be denied, making this denial reason obsolete.

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 changes in processes for registrars, especially recommendation 1) and 2), but these are considered to have a minimum impact and necessary in order to address the issues that are part of this Policy Development Process. The recommendations, if implemented, would 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;**

There are two components to implement the IRTP revisions adopted by the Board: 1) revising Section 3 of the IRTP and "Denial Reasons" numbers six and seven which are relatively straightforward; 2) implementing the TEAC which requires making changes to RADAR, and is dependent on the IT Department's resources in terms of personnel and time.

With regard to implementing the revisions to Section 3 and the relevant Denial Reasons of the IRTP, staff believes that it would take sixty to ninety (60-90) days to complete the following necessary steps for implementation which include: drafting of and obtaining the necessary legal clearance for the new revised language; posting the new policies and announcement on the ICANN website; setting up and providing appropriate separate notice processes to all accredited

Registrars under the 2009 RAA (electronic) and under the 2001 RAA (written notice); providing a “reasonable” period of time (usually 30-60 days) as required by the RAA for Registrars to comply with the new policies.

Ideally, implementation of the TEAC would take place within the above 60–90 day timeframe, as this then would require only one notification to Registrars. However, due to the necessary changes to RADAR, the timeframe is dependent on the IT Department, which at this point can only confirm that they cannot address the necessary work on RADAR until some time in September. Registrar compliance with the TEAC requirements could be considered more complex and therefore may warrant a slightly longer implementation timeframe (the RAA requires that "Registrar shall be afforded a reasonable period of time after notice of the establishment of a specification or policy... to comply with that specification or policy, taking into account any urgency involved.")

Therefore, the earliest implementation of the policy would be 60-90 days after being directed by the Board to do so, however, if staff decides for efficiency and cost reasons (i.e., written notifications to 103 Registrars under the 2001 RAA) to complete the implementation of all policy changes at one time with one notification to Registrars, then the possible additional time to prepare and implement the TEAC must be taken into account.

- 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 B PDP Final Report can be found here: <http://gnso.icann.org/issues/transfers/irtp-b-final-report-30may11-en.pdf>. Translations of the Final Report are also available (see <http://www.icann.org/en/announcements/announcement-30may11-en.htm>).

- 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.**

Item 3: Inter-Registrar Transfer Policy Part B Working Group

Marika Konings provided a brief update to the Council on the Final Report on the Inter-Registrar Transfer Policy – Part B Policy Development Process

<http://gns0.icann.org/issues/transfers/council-briefing-irtp-b-14jun11-en.pdf>

Tim Ruiz, seconded by **Jonathan Robinson** proposed a motion that was amended by **Adrian Kinderis** and **Kristina Rosette** on the adoption of the IRTP Part B Final Report and Recommendations

(Each resolved clause required a different voting threshold and was voted on separately.)

WHEREAS on 24 June 2009, the GNSO Council launched a Policy Development Process (PDP) on IRTP Part B addressing the following five charter questions:

- a. 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>);
- b. Whether additional provisions on undoing inappropriate transfers are needed, especially with regard to disputes between a Registrant and Admin Contact (AC). The policy is clear that the Registrant can overrule the AC, but how this is implemented is currently at the discretion of the registrar;
- c. Whether special provisions are needed for a change of registrant when it occurs near the time of a change of registrar. The policy does not currently deal with change of registrant, which often figures in hijacking cases;
- d. Whether standards or best practices should be implemented regarding use of a Registrar Lock status (e.g. when it may/may not, should/should not be applied);
- e. Whether, and if so, how best to clarify denial reason #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.

WHEREAS this PDP has followed the prescribed PDP steps as stated in the Bylaws, resulting in a Final Report delivered on 30 May 2011;

WHEREAS the IRTP Part B WG has reached full consensus on the recommendations in relation to each of the five issues outlined above;

WHEREAS the GNSO Council has reviewed and discussed these recommendations.

Resolved

RESOLVED (A), the GNSO Council recommends to the ICANN Board of Directors:

1. Requiring Registrars to provide a Transfer Emergency Action Contact (TEAC). To this end the language of section 4 (Registrar Coordination) and Section 6 (Registry Requirements of the Inter-Registrar Transfer Policy should be updated as follows:

Transfer Emergency Action Contact (Append to Section 4)

Registrars will establish a Transfer Emergency Action Contact (TEAC) for urgent communications relating to transfers. The goal of the TEAC is to quickly establish a real-time conversation between registrars (in a language that both parties can understand) in an emergency. Further actions can then be taken towards a resolution, including initiating existing (or future) transfer dispute or undo processes.

Communications to TEACs will be reserved for use by ICANN-Accredited Registrars, gTLD Registry Operators and ICANN Staff. The TEAC point of contact may be designated as a telephone number or some other real-time communication channel and will be recorded in, and protected by, the ICANN RADAR system.

Communications to a TEAC must be initiated in a timely manner, within a reasonable period of time following the alleged unauthorized loss of a domain.

Messages sent via the TEAC communication channel must generate a non-automated response by a human representative of the gaining Registrar. The person or team responding must be capable and authorized to investigate and address urgent transfer issues. Responses are required within 4 hours of the initial request, although final resolution of the incident may take longer.

The losing registrar will report failures to respond to a TEAC communication to ICANN Compliance and the registry operator. Failure to respond to a TEAC communication may result in a transfer-undo in accordance with Section 6 of this policy and may also result in further action by ICANN, up to and including non-renewal or termination of accreditation.

Both parties will retain correspondence in written or electronic form of any TEAC communication and responses, and share copies of this documentation with ICANN and the registry operator upon request. This documentation will be retained in accordance with Section 3.4 of the Registrar Accreditation Agreement (RAA). Users of the TEAC communication channel should report non-responsive Registrars to ICANN. Additionally, ICANN may conduct periodic tests of the Registrar TEAC communication channel in situations and a manner deemed appropriate to ensure that registrars are indeed responding to TEAC messages.

(Append to Section 6) 6 iv. Documentation provided by the Registrar of Record prior to transfer that the Gaining Registrar has not responded to a message via the TEAC within the timeframe specified in Section 4.

In addition, update section 6 to reflect that the registry, in case of a transfer undo, will reverse the transfer and reset the registrar of record filed to its original state ('In such case, the transfer will be reversed and the Registrar of Record field reset to its original state'). (IRTP Part B Recommendation #1)

2. Modifying section 3 of the IRTP to require that the Registrar of Record/Losing Registrar be required to notify the Registered Name Holder/Registrant of the transfer out. The Registrar of Record has access to the contact information for the Registrant and could modify their systems to automatically send out the Standardized Form for Losing Registrars ("Confirmation FOA") to the Registrant. (IRTP Part B Recommendation #5)
3. Modifying Reason for Denial #6 as follows: Express objection to the transfer by the authorized Transfer Contact. Objection could take the form of specific request (either by paper or electronic means) by the authorized Transfer Contact to deny a particular transfer request, or a general objection to all transfer requests received by the Registrar, either temporarily or indefinitely. In all cases, the objection must be provided with the express and informed consent of the authorized Transfer Contact on an opt-in basis and upon request by the authorized Transfer Contact, the Registrar must remove

- the lock or provide a reasonably accessible method for the authorized Transfer Contact to remove the lock within five (5) calendar days. (IRTP Part B Recommendation #6)
4. Deleting denial reason #7 as a valid reason for denial under section 3 of the IRTP as it is technically not possible to initiate a transfer for a domain name that is locked, and hence cannot be denied, making this denial reason obsolete. (IRTP Part B Recommendation #9 – part 1)

The motion carried unanimously.

RESOLVED (B), the GNSO Council recommends the promotion by ALAC and other ICANN structures of the measures outlined in the recent report of the Security and Stability Advisory Committee on A Registrant's Guide to Protecting Domain Name Registration Accounts (SAC 044). In particular, the GNSO Council recommends that registrants consider the measures to protect domain registrar accounts against compromise and misuse described in SAC044, Section 5. These include practical measures that registrants can implement "in house", such as ways to protect account credentials and how to incorporate domain name registrations into employee or resource management programs typically found in medium and large businesses. It suggests ways that registrants can use renewal and change notifications from registrars as part of an early warning or alerting system for possible account compromise. The GNSO Council Chair will reach out to the ALAC and other ICANN structures to inform them of this recommendation and discuss how the GNSO may contribute to this promotion. (IRTP Part B Recommendation #2)

The motion carried unanimously.

RESOLVED (C), the GNSO Council acknowledges receipt of IRTP Part B Recommendation #7 and will consider this recommendation when it considers the Final Issue Report on the Current State of the UDRP.

The motion carried unanimously.

RESOLVED (D), prior to the consideration of approval of the recommendation which states: "denial reason #7 should be replaced by adding a new provision in a different section of the IRTP on when and how domains may be locked or unlocked", the GNSO Council requests ICANN Staff to provide a proposal for such a new provision, taking into account the IRTP Part B WG deliberations in relation to this issue (see IRTP Part B Final Report – (Recommendation #9 – part

2). Upon review of the proposal, the GNSO Council will consider whether to approve the recommendation.

The motion carried unanimously.

RESOLVED (E), prior to the consideration of approval of the recommendation regarding the standardizing and clarifying WHOIS status messages regarding Registrar Lock status, the GNSO Council requests ICANN staff to provide a proposal designed to ensure a technically feasible approach can be developed to meet this recommendation. Staff should take into account the IRTP Part B WG deliberations in relation to this issue (see IRTP Part B Final Report). (IRTP Part B Recommendation #8). The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Upon review of the proposed plan, the GNSO Council will consider whether to approve the recommendation.

The motion carried unanimously.

RESOLVED (F), the GNSO Council will consider IRTP Part B Recommendation #3 concerning the request of an Issue Report on the requirement of 'thick' WHOIS for all incumbent gTLDs at its next meeting on 21 July.

The motion carried unanimously.

RESOLVED (G), the GNSO Council requests an Issue Report on IRTP Part C, which should include:

- "Change of Control" function, including an investigation of how this function is currently achieved, if there are any applicable models in the country-code name space that can be used as a best practice for the gTLD space, and any associated security concerns. It should also include a review of locking procedures, as described in Reasons for Denial #8 and #9, with an aim to balance legitimate transfer activity and security. (IRTP Part B Recommendation #4)
- Whether provisions on time-limiting Form Of Authorization (FOA)s 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.

- Whether the process could be streamlined by a requirement that registries use IANA IDs for registrars rather than proprietary IDs.

The motion carried unanimously.

ADDITIONAL INFORMATION

h. Consultations undertaken

External

Public comment forums were held on the [initiation of the PDP](#), [the Initial Report](#), the [proposed Final Report](#) and [the recommendations subject to Board Consideration](#), in addition 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, [Brussels Meeting](#) and [San Francisco Meeting](#)). Constituency / Stakeholder Group Statements were submitted (see <https://community.icann.org/display/gnsoirtpb/IRTP+Part+B>). All comments received have been reviewed and considered by the IRTP Part B PDP WG (see section 6 of the [IRTP Part B Final Report](#)).

Internal

Regular input was received from the ICANN Compliance as well as the Legal Department in relation to the recommendations under consideration and potential issues raised with the IRTP Part B PDP Working.

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

A public comment forum was held from 8 July to 8 August 2011. Three comments were received: one from Andreas Bartels (Deutsche Telekom AG), one from David Maher on behalf of the gTLD Registries Stakeholder Group (RySG) and one from Steve DelBianco on behalf of the Business Constituency (BC). The RySG and BC both express their support for the recommendations and encourage their adoption by the ICANN Board. Andreas Bartels expresses his concern with regard to the four hour response time required as part of the Transfer

Emergency Action Contact (TEAC) recommendation and notes that it would put ‘too much burden on small and medium sized registrars’. However, the commenter seems to assume that a resolution is required within four hours (‘A final solution/ settlement can take place also after 1 or 2 days’) instead of an initial response, which is the only requirement under the proposed TEAC. As the IRTP Part B PDP Working Group explained it in its Final Report ‘the goal of the TEAC is to quickly establish real time communication between registrar representatives who can take steps to resolving the issue, but this policy only addresses establishing that communication not resolving any disputes that may arise’. With regard to the four hour response time, the IRTP Part B PDP Working Group noted that ‘even the smallest of registrars can simply rotate this function among operational staff, just as they rotate other “emergency” aspects of their business. The number of TEAC requests is likely to be very small and quite infrequent, but when they occur there is a genuine emergency that needs to be dealt with quickly’. It should be noted that both small as well as big registrars participated in the deliberations of the IRTP Part B Working Group and supported the recommendations.

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

- In the first phase of implementation, the IRTP Part B WG recommends that the ICANN Registrar Application and Database Access Resource (RADAR) system is used to record the TEAC point of contact.
- In order to avoid potential abuse of the TEAC for non-emergency issues or claims that TEAC messages did not receive a timely response, the WG recommends that the RADAR system is adapted, as part of a second phase implementation, so that registrars log in to send or respond to a TEAC, with both transactions time stamped with copy to ICANN and the Registry.
- The IRTP Part B Working Group recommends that the GNSO perform a follow-up review of the TEAC 12 to 24 months after the policy is implemented to identify any issues that may have arisen and propose modifications to address them. This review should specifically address whether the TEAC is working as intended (to establish contact between registrars in case of emergency), whether the TEAC is not abused (used for issues that are not

considered an emergency) and whether the option to ‘undo’ a transfer in case of failure to respond to a TEAC should be made mandatory.

- See also Annex C – TEAC FAQ in the IRTP Part B [Final Report](#) for further details concerning the intent and objective of the TEAC.

k. Impact / Implementation Considerations from ICANN Staff

- Transfer related issues are the # 1 area of complaint according to data from ICANN Compliance. Improvements to the IRTP have the potential to reduce the number of complaints, in addition to providing clarity and predictability to registrants as well as registrars.
- In relation to recommendation 1 (TEAC), some non-WG participants have claimed that this might result in registrant’s reclaiming names as a result of ‘seller-remorse’. It should be pointed out that only registrars can use the TEAC, not registrants. Also, the obligation as part of the TEAC is fulfilled as soon as the registrar that is contacted by using the TEAC responds (note, no resolution of issue required to fulfill the obligations under this new proposed policy). Only if a TEAC is not responded to, the transfer may be undone.
- Some have argued that the 4 hour response time in relation to the TEAC is too short and does not accommodate different time zones (see for example public comments submitted), but registrar representatives on the WG were the main proponents for having this short timeframe noting that a short response time is essential in emergency situations and that most registrars already work with a 24/7 on call system, even smaller ones (and if not, cost-efficient solutions are available to provide such a service). In the WG’s own words: *“The policy requires a four-hour response time. Isn’t that going to be hard for smaller registrars to cover, especially at night or on the weekends? No. Even the smallest of registrars can simply rotate this function among operational staff, just as they rotate other “emergency” aspects of their business. The number of TEAC requests is likely to be very small and quite infrequent, but when they occur there is a genuine emergency that needs to be dealt with quickly”* (See Annex C of the IRTP Part B Final Report).
- During the WGs deliberations on the TEAC, discussions were held with ICANN Staff to investigate whether the TEAC could be incorporated as part of the existing RADAR system, and ICANN Staff confirmed that this would be a feasible and recommendable approach.