Request for Information
IRTP – Part D
ICANN Contractual Compliance

The Inter-Registrar Transfer Policy (IRTP) Part D Working Group (Working Group) requested that ICANN's Contractual Compliance Department provide data to help inform the Working Group's discussions regarding IRTP dispute policy enhancements, penalties for IRTP violations, and the need for Forms of Authorization (FOAs). Specifically, the Working Group requested data concerning complaints in relation to the Transfer Dispute Resolution Policy (TDRP) and responses to Charter Questions related to the TDRP and the IRTP.

Below is an executive summary as well as detailed statistical information regarding complaints involving the IRTP and feedback regarding the Working Group's Charter Questions.

EXECUTIVE SUMMARY

ICANN's Contractual Compliance Department received and processed 6594 IRTP-related complaints during the period between January 2012 and February 2013. Of these, 2778 complaints (42%) corresponded to invalid (those that did not involve a potential breach to the IRTP) or FAQ-type complaints. The remaining 3816 complaints (58%) were valid IRTP complaints, of which 47 (1.2%) were related to unauthorized transfers of domain names.

Of the 47 complaints related to unauthorized transfers of domain names, 31 complaints (0.8% of the total valid IRTP complaints) were related to email address hijacking or hijacking of access credentials to the registrant's control panel. While processing the 16 remaining complaints related to unauthorized transfers (0.4% of the total valid IRTP complaints) none of the involved registrars stated, or provided evidence that they initiated a TDRP procedure.

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I. Data Analysis

1. Inter-Registrar Transfer Complaints

The most prevalent compliance issues found in the 3816 valid IRTP complaints that were received and processed during the period between January 2012 and February 2013, were:

- Registrars not providing the AuthInfo code via their control panel, and also not providing it within the IRTP-required five days.

- Registrars not providing means for the Transfer Contacts to unlock the domain names themselves, and also not unlocking them within the IRTP-required five days.

- Registrars sending the AuthInfo code to a contact different than the Registered Name Holder.

- Resellers requiring registrants to renew their domain names as a condition to processing transfer requests.

2. Complaints specific to unauthorized transfers

Among the 3816 valid IRTP complaints, 47 complaints (1.2% of the total valid IRTP complaints) related to domain name transfers from one registrar to another without the registrant's previous consent.

Of these 47:

- 31 complaints (0.8% of the total valid IRTP complaints) involved allegations of:

  o Email hijacking that resulted in Change of Registrant, with the subsequent 'unauthorized transfer' in which the hijacker allegedly, while pretending to be the Registered Name Holder: (a) requested and received the AuthInfo code, and (b) sent both the AuthInfo code and the FOA to the gaining registrar.

  o Hijacking of access credentials to the registrant's control panel, which resulted in the hijacker retrieving the AuthInfo code itself and

the subsequent 'unauthorized transfer'.

These 31 complaints can be grouped as follows, according to the information provided by the registrars in response to ICANN's notices:

- o Four (4) in which the gaining registrars updated the Registrant Name field in the registration information for the concerned domain names with the names of the complainants, although the transfers were not undone.

- o 13 in which the registrars did not mention that they would initiate a TDRP procedure. Additionally, in these same complaints, both gaining and losing registrars did not mention whether they were in contact with the other registrar to address the issue.

- o 14 in which the gaining or the losing registrar stated that they were in contact with the other registrar to address the issue. However, the registrars did not indicate whether they would initiate a TDRP procedure.

- The remaining 16 complaints (0.4% of the total valid IRTP complaints) did not involve allegations of email hijacking or hijacking of control panel access credentials. They can be grouped as follows, according to the information provided by the registrars in response to ICANN's notices:

- o 5 in which the gaining registrars asked the complainants to request the losing registrars to initiate the TDRP procedure.

- o 3 in which the gaining registrars simply stated that they had not been contacted by the losing registrars to dispute the transfers, without specific reference to the TDRP procedure.

- o 4 in which neither the gaining nor losing registrars mentioned that they would initiate the TDRP procedure. In these same complaints the registrars did not mention whether they were in contact with the other registrar to address the issue.

- o 2 in which the gaining registrars mentioned that they would contact the losing registrars to address the issue.

- o 1 in which the unauthorized transfer was undone, although the

issue was solved directly between the gaining and losing registrar without the initiation of the TDRP procedure.

   o 1 in which the complainant requested that the TDRP be initiated, but it was not.

In none of these remaining 16 complaints related to unauthorized transfers did the involved registrars state, or provide evidence that they initiated a TDRP procedure.

II.   Responses to the IRTP Part D Charter Questions

Question 1.   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.

Answer: ICANN's Contractual Compliance Department considers that reporting requirements for registries and dispute providers could be beneficial, as they would provide trending and statistical information on TDRP disputes filed, and increase its visibility regarding matters of potential non-compliance.

Question 2.   Whether additional provisions should be included in the TDRP (Transfer Dispute Resolution Policy) on how to handle disputes when multiple transfers have occurred.

Answer: ICANN's Contractual Compliance Department suggests that additional provisions on how to handle disputes when multiple transfers have occurred be considered by the Working Group, as they could help clarify the process and facilitate the handling of disputes, as long as the initiation and processing of TDRP procedures do not become unreasonably complex or ineffective.

Question 3.   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).

Answer: ICANN's Contractual Compliance Department recommends that

registrants be given options to initiate disputes under the TDRP, as data analysis demonstrates that registrars are not always willing to initiate them. In these situations, registrants are left with very few feasible options, making it unlikely that the unauthorized transfers are ever reversed.

Question 4. Whether requirements or best practices should be put into place for registrars to make information on transfer dispute resolution options available to registrants.

Answer: In the interest of consumer protection, ICANN's Contractual Compliance Department recommends establishing requirements for registrars to publish information pertaining to transfer dispute resolution options available to registrants.

Question 5. Whether existing penalties for policy violations are sufficient or if additional provisions/penalties for specific violations should be added into the policy.

Answer: During 2012, ICANN issued five notices of breach against registrars due to violations of the IRTP. The breaches were cured and no further action was taken.

Currently, a registrar's accreditation can be suspended or terminated under certain circumstances. ICANN Contractual Compliance does not have a view regarding additional provisions or penalties for specific violations, as the negotiations on a new version of the RAA are still ongoing.

Question 6. Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need of FOAs.

Answer: Concerning legitimate transfer requests, it may seem redundant to have the AuthInfo code sent by the Registered Name Holder (RNH), and the mandatory FOA sent by the RNH or the Admin Contact, to the gaining registrar.

However, ICANN's Contractual Compliance Department is of the view that, in cases involving unauthorized transfer requests in which the RNH's email address has been hijacked, or its access credentials to the control panel have been stolen, the gaining

registrar's obligation to obtain the FOA from either the RNH or the Admin Contact can help protect the domain names from being hijacked, given the RNH's Whois contact information is different from the Admin Contact's. The Admin Contact can attempt to deny the transfer request or, at the least, is alerted of a pending transfer request and may have the opportunity to take appropriate action against the hijacker.

31 (66%) of the 47 unauthorized transfer complaints received by ICANN in the period from January, 2012 to February, 2013, involved the RNH's hijacked email address or its stolen control panel access credentials. While ICANN does not have visibility on all the instances in which the Admin Contacts were able to actually deny the transfer requests or take action against potential hijackers, as these were never filed as IRTP-related complaints, this percentage suggests that two-thirds of all unauthorized transfer requests can potentially be denied or addressed by the Admin Contacts due to the gaining registrars' obligation to obtain the FOA from any of the Transfer Contacts.