**Charter Question b)**

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

**Issue Description:**

Problems may arise when trying to resolve transfer disputes in instances where multiple transfers have occurred. This issue refers to a situation whereby a registration changes registrars multiple times before or during the time a TDRP has been filed.

Such a situation would create multiple layers in the dispute proceeding as the transfer process would have to be verified and assessed for every transfer that occurred, potentially involving multiple registrars. In the case of a hijacked registration, subsequent transfer(s) likely would be in compliance with the transfer policy because the hijacker is typically able to modify the Whois data (i.e., the transfer contact) after the first transfer is completed.

This might raise a question of fairness for those registrants that may have purchased a domain in compliance with the policy, yet dispute providers may still find that the first – in a chain of a number of transfers – may have violated the transfer policy or be a hijack and thus question the validity of all other (compliant) transfers down the line.

**WG Observations**

In its discussions of domain name hijacking, the WG agreed that the domain name registration should return to the original registrar from which it had been fraudulently removed. This is true regardless of the number of subsequent legitimate transfers occurring after the initial hijack.

The WG notes that in the case of a hijack that has been followed by multiple ‘hops’ the TDRP communication would at a minimum be between the first losing Registrar, the subsequent gaining registrar and the current Registrar of Record. The WG also notes that Verisign’s current version of its [supplemental rules](http://www.verisign.com/stellent/groups/www_corporate/documents/other_documents/016086.pdf) are in accordance with this scenario ([See Section N, Paragraph 1](http://www.verisign.com/stellent/groups/www_corporate/documents/other_documents/016086.pdf))

*(Comment from James: I think we need to examine this more closely. It seems that the parties involved in a multi-hop transfer would be: The first losing registrar, the first gaining registrar, and the current registrar.) – Agree, see edits*

The WG also notes that the statute of limitations for filing a TDRP is an important factor in these scenarios. These restrictions are contained in Section 2.3 of the Policy:

A dispute must be filed no later than six (6) months after the alleged violation of the Transfer Policy. In the case where a Registrar of Record alleges that a transfer was in violation of this Policy, the date the transfer was completed shall be deemed the date in which the "alleged violation" took place. In the case where a Gaining Registrar alleges that a transfer should have taken place, the date in which the NACK (as defined below) was received by the Registry, shall be deemed the date in which the "alleged violation" took place.

The WG also notes that any statute of limitations, regardless of term length, could be thwarted by hijackers, who would simply hold a domain name and sell it once the statute of limitations has expired. However, the WG recognizes that removing the statue of limitation may present other problems, particularly in aftermarket sales of domain names, since buyers and sellers would find it difficult establishing whether a given domain name registration is ‘safe’ to sell or not.

The WG addressed the question whether or not a transfer of registrant, as addressed in the IRTP Part C PDP, would also be covered under the TDRP policy. This provision was not in effect during the development of the current charter, but is appropriately addressed here and needs to be resolved.

**WG Recommendations**

The WG recommends that the TDRP be amended along the following lines:

“Transfers from a Gaining Registrar to a third registrar, and all other subsequent transfers, are null and void if the Gaining Registrar acquired sponsorship from the Registrar of Record through an invalid transfer, as determined through the dispute resolution process set forth in the Transfer Dispute Resolution Policy.”

Remaining Questions:

* Which parties should participate in a dispute that includes several (i.e. more than 2? Or more than 3?) hops? What happens with those that do not participate?
* Does the transfer of registrants – as covered by IRTP Part C – also fall under the remit of this Charter question and if so, does the TDRP need to be updated to reflect this?
* Should the statue of limitations to file a TDRP be eliminated or extended?
* If it is extended, should it be until the next renewal period? Or a certain period (three months?) after the next renewable date?
* Is the TDRP the most effective way to deal with multiple transfers or should this be left to the judicial system?