

FULL PORTFOLIO TRANSFERS (ICANN-APPROVED BULK TRANSFERS)

Prelim Rec. #xx.1: (i) The Working Group recommends that a Registry Operator MAY charge a fee to implement a full domain name portfolio transfer¹ of 50,000 or more domain names from one ICANN-accredited registrar to another ICANN-accredited registrar(s), provided the conditions described in sections I.B.1.1 and I.B.1.2 are satisfied. (ii) The Registry MAY waive the fee associated with full portfolio transfers; however, in full portfolio transfers resulting from an involuntary registrar termination, i.e., where a registrar is terminated by ICANN due to non-compliance with the Registrar Accreditation Agreement, the Working Group recommends the Registry MUST waive any fee associated with a full portfolio transfer.

Rationale: The carve out for instances of a full portfolio transfer resulting from an involuntary termination/non-renewal is in recognition of the difficulty ICANN org has noted in procuring a gaining registrar to take on a failing or unresponsive registrar's domain name portfolio.

Prelim. Rec. #xx.2: The Working Group recommends retaining both (i) the current minimum number of domain names that trigger the fee at 50,000 names and (ii) the current price ceiling of USD \$50,000. If the full portfolio transfer involves multiple Registry Operators, the affected Registry Operators MUST ensure the collective fee does not exceed the recommended ceiling of USD \$50,000, and the fee MUST be apportioned based on the number of domain names transferred. [Please see recs. 3-6 for further information on the apportionment.]

Rationale: The Working Group has noted retaining a price ceiling promotes transparency and has recommended keeping the status quo; however, the Working Group believes it is important to specify the price ceiling encompasses a collective fee. In other words, the \$50,000 fee is the total amount a registrar would pay for a full portfolio transfer. The Working Group made this update in recognition of the changes to the industry that have occurred since this policy was first drafted, i.e., the number of Registry Operators and TLDs has increased significantly, which could result in unintended high fees.

Prelim Rec. #xx. 3: Due to the variable nature of the fee associated with full portfolio transfers, the Working Group recommends that Registry Operators MUST provide notice to registrars of any fees associated with full portfolio transfers upon request and prior to the completion initiation of the full portfolio transfer. How Registry Operators choose to provide notice of fees will be up to the Registry to decide, i.e., password protected portal, website, written notice, etc.

¹ Note: this could include all of the domain names a registrar has within a gTLD or all of the gTLD domain names a registrar has under management.

Rationale: The Working Group believes this recommendation promotes fee transparency for Registrars who might consider a full portfolio transfer. The Working Group also recognizes that flexibility is needed for Registry Operators as different business models exist, and Registries should have the flexibility to determine the preferred way to engage with their Registrars.

Prelim. Rec. #xx.4: The Working Group recommends that if the full portfolio transfer involves multiple Registry Operators, and one or more affected Registry Operators chooses to waive its portion of the collective fee, the remaining Registry Operators MUST NOT adjust their fees to a higher percentage due to another Registry Operator's waiver.

Rationale: The Working Group notes the fee apportionment was designed to be equitable, and this recommendation aims to ensure a voluntary fee waiver does not result in an unintended consequence or gaming.

Prelim. Rec. #xx.5: The Working Group recommends that following the completion of the transfer, the Registry Operator(s) MUST provide notice to ICANN that the transfer is complete, and the notice to ICANN MUST include the number of domain names transferred.

Rationale: As the entity responsible for effecting the transfer, the Registry Operator is responsible for providing the official number of domain names transferred to ICANN.

Prelim. Rec. #xx.6: The Working Group recommends that following receipt of notices from all affected Registry Operators, ICANN MUST send a notice to affected Registry Operators with the reported numbers and corresponding percentages of domain names involved in the bulk transfer, e.g., 26% of names for .ABC and 74% of names for .DEF. The Registry Operators MAY then charge the Gaining Registrar a fee according to their schedule.

Rationale: The Working Group noted that ICANN org is the appropriate entity to notify affected Registry Operators of the numbers transferred after receiving notice from the affected Registries. The Working Group provided example percentages for clarity of implementation.

Prelim. Rec. #xx.7: The Working Group recommends that the Gaining Registrar MUST be responsible for paying the relevant Registry's fee (if any).

Rationale: The Working Group recognizes that a voluntary request to transition a domain name portfolio to another registrar will require internal coordination and work from the relevant Registry Operator, and accordingly, the Registry Operator may charge a fee for this process. Due to the voluntary nature of the portfolio transfer request, the Gaining Registrar should be responsible for paying this fee to the Registry Operator as (i) the Gaining Registrar, through the transfer, is inheriting new customers, and (ii) the Losing Registrar may be going out of business

and, accordingly, may be unable to pay the fee.

Change of Sponsorship (BTAPPA) RECOMMENDATIONS

Prelim. Rec. #xx.1: The Working Group recommends that [the standard Bulk Transfer After Partial Portfolio Acquisition (BTAPPA)] be expanded to include circumstances where an agent of the Registrar, such as a Reseller or service provider **who is acting under the authority or on behalf of the Registered Name Holder**, elects to transfer its portfolio of domain names to a new Gaining Registrar, **and [this type of transfer is permissible under the relevant agreements².]**

Prelim. Rec. #xx.2: The Working Group recommends that in the event a change of sponsorship³ is permitted by the Registry Operator, Registrars shall either notify or ensure their Resellers (where applicable) notify affected Registrants approximately one month⁴ before the change of sponsorship is expected to occur. This notification⁵ must provide instructions on (i) how to opt out (if applicable) (ii) how to transfer the name to a Registrar other than the Gaining Registrar [by x date] if desired], (iii) the expected date of the change of sponsorship, (iv) the name of the Gaining Registrar, and (v) a link to the Gaining Registrar's (or their Reseller's) terms of service.

Rationale: Advance notice would give affected registrants the ability to transfer their name elsewhere if they so desire or opt out of the transfer if that option is available. In some

² The Working Group recognizes that multiple parties could be implicated here and has left flexibility in the language to account for this. The important concept to the Working Group is that the Registered Name Holder is notified, via its registration agreement, that an inter-registrar transfer may occur outside of the Transfer Policy described in IA of the Transfer Policy (Holder Authorized Transfers).

³ Within this Report, the Working Group has defined Change of Sponsorship as circumstances where (i) one ICANN-accredited registrar purchases, by means of a stock or asset purchase, merger or similar transaction, a portion but not all, of another ICANN-accredited registrar's domain name portfolio in the TLD; (ii) a newly accredited registrar (gaining registrar) requests a transfer of all domain names from the losing registrar for which the gaining registrar has served as the Reseller; or (iii) where an agent of the Registrar, such as a Reseller or service provider, elects to transfer its portfolio of domain names to a new gaining registrar, and the registration agreement explicitly permits the transfer.

⁴ The WG recognizes that some flexibility is required in the timing of Change of Sponsorship (BTAPPA) notifications. As such, one month should be treated as no less than 26 **calendar** days and no more than 35 **calendar** days. A registrar is not precluded from sending additional notifications earlier or later than this required one month notification.

⁵ A notice MAY encompass multiple TLDs if a Registered Name Holder has registered domain names under more than one TLD and the same parameters apply to the transfers, i.e., the date of transfer, instructions, etc.

instances, such as a registrar consolidation where a registrar will cease to exist upon the transfer, the option to opt out may not be available. Clarifying when the transfer will take place, to which registrar it will transfer, and what their terms of service are enables registrants to familiarize themselves with the new registrar and their terms before the change of sponsorship takes place.

Prelim. Rec. #xx.3: The Working Group recommends that for a change of sponsorship, the expiration dates of transferred registrations are not affected and, therefore, there are no ICANN fees. Once the change of sponsorship is complete, there is no grace period to reverse the transfer.

Rationale: This language is currently included in the BTAPPA boilerplate. [The Working Group believes this should be included in the Transfer Policy.]

Prelim. Rec. #xx.4: The Working Group recommends a Registry Operator **MUST** reject a change of sponsorship request if there is reasonable evidence that the change of sponsorship is being requested in order to avoid fees otherwise due to the Registry Operator or ICANN. A Registry Operator has discretion to reject a change of sponsorship request if a registrar with common ownership or management or both has already requested a change of sponsorship within the preceding six-month period.

Rationale: This language is currently included in the BTAPPA boilerplate. [The Working Group believes this should be included in the Transfer Policy.]

Prelim. Rec. #xx.5: The Working Group recommends that the Losing Registrar's existing Registration Agreement with customers **MUST** permit the transfer of domain names in the event of the scenarios described in the Transfer Policy with respect to a change of sponsorship. Additionally, the Losing Registrar's Registration Agreement must inform registrants that in the event of a change of sponsorship, the affected registrants will be deemed to have accepted the new registrar's terms, unless the registrant transfers their domain name(s) to a different registrar prior to the change of sponsorship.

Prelim. Rec. #xx.6: The Working Group recommends that the Registry Operator **MAY** charge a fee for a change of sponsorship, but Registry Operators **MUST** provide notice to Registrars of any fees associated with a change of sponsorship upon request and prior to the initiation of the transfer. How Registry Operators choose to provide notice of fees will be up to the Registry to decide, i.e., password protected portal, website, written notice, etc.

Rationale: The Working Group believes this recommendation promotes fee transparency for registrars who might consider a change of sponsorship. The Working Group also recognizes that flexibility is important for Registry Operators as different business models exist, and Registries should have flexibility to determine the preferred way to engage with their Registrars.

Prelim. Rec. #xx.7: In the case of a change of sponsorship, the Losing Registrar MAY have to prevent certain locked domain names from proceeding with the sponsorship change: specifically, names that are locked due to: (i) Pending UDRP proceeding that the Registrar has been notified of by the Provider in accordance with the UDRP Rules, (ii) a court order by a court of competent jurisdiction, (iii) a pending dispute under the Transfer Dispute Resolution Policy, or (iv) Pending URS proceeding or URS suspension that the Registrar has been notified of by the Provider in accordance with the URS Procedure.

Rationale: The Working Group notes that the majority of domain name locks, including registrant-applied locks and EPP lock statuses, will remain in place following a change of sponsorship/BTAPPA scenario. However, domain names with locks applied as a result of the above specifically-named dispute proceedings/court orders involve jurisdictional challenges, and accordingly, will not be transferred to the Gaining Registrar.

Prelim. Rec. #xx.8: In the case of a change of sponsorship, the Gaining Registrar MUST NOT impose a new inter-registrar transfer lock preventing affected registrants from transferring their domains to another Registrar.

Rationale: The Working Group notes that a change of sponsorship is not initiated by registrants and does not affect their domain name expiration dates; therefore, the transfer lock that would otherwise follow a typical inter-registrar transfer should not apply in this instance. Transfer locks that are triggered by other means set out in the Transfer Policy would still apply.