



Comment on Proposed Changes to Inter-Registrar Transfer Policy

As a member of the IRTP-Part C Working Group (the "Working Group") and as General Manager of NameJet, LLC ("NameJet"), a leading domain name aftermarket platform, I write to comment on ICANN's proposed changes to the Inter-Registrar Transfer Policy ("IRTP" and/or the "Policy").

First, as a member of the IRTP-Part C Working Group (the "Working Group"), I personally participated in discussions aimed to develop policy that would facilitate the ease of domain name transfers between registrants, while at the same time helping to prevent domain name hijacking and unauthorized transfers. As outlined in the Final Report of the Working Group (the "Report" as found online at <http://gns0.icann.org/en/issues/irtp-c-final-report-09oct12-en.pdf>), the Working Group was charged with tackling three issues, namely: (i) investigating how the "change of control" or "change of registrant" function is currently achieved, and if there are any applicable models in the country-code name space that can be used as a best practice for the gTLD space, while also identifying any associated security concerns; (ii) whether provisions on time-limiting Form Of Authorizations (FOAs) should be implemented to avoid fraudulent transfers out; and (iii) whether the process could be streamlined by a requirement that registries use IANA IDs for registrars rather than proprietary IDs.

Following several months of discussion and deliberation, the Working Group recommended the adoption of change of registrant consensus policy, which outlines the rules and requirements for a change of registrant of a domain name registration. Per this recommendation, both the "Prior Registrant" and the "New Registrant" need to authorize the change of registrant, whereby such authorization could also be provided by the Prior Registrant in the form of pre-approval or via a proxy. In light of the foregoing, the Policy changes that are now being proposed in the current Policy draft DO NOT appear to be consistent with the final recommendations of the Working Group. Among other items, the Working Group made it clear that pre-approval and/or approval by proxy on the part of the prior registrant was acceptable, provided such pre-approvals are secured using a generally accepted method of authentication. However, this stipulation is noticeably absent from the proposed Policy update, and this would conflict with the recommendations and intent of the Working Group. In addition, per the Report, a change of registrant can be requested by the registrant or an authorized representative of the registrant - another aspect absent from the current Policy draft. As such, pre-approval or proxy authorization should be incorporated into and allowable under any new version of the Policy.

Moreover, while the Working Group's recommendation is that both Registrants are to authorize a change of registrant, the language in the Policy draft related to the transmission of Change of Registrant Credentials appears inconsistent. Notably, the language in the revised Policy regarding the obtaining of requisite confirmation requires the prior registrant to transmit the credential to the new registrant. However, Step 1 of the change of registrant process as outlined in the Report provides that either registrant may transmit the credential to the other. Also, the proposed Policy appears to further add additional steps and layers to the process that were not recommended or otherwise contemplated by the Working Group, and as such may have negative unintended consequences on various stakeholders, such as registries, registrars and registrants. For example, the proposed Policy incorporates another confirmation/approval step beyond the transmission of the Credentials (See Part II, Section 3.2(b)(i)), which was not recommended by the Working Group, and may add unnecessary restrictions and complexity to the process. Furthermore, Section 2.2 of Part II of the proposed Policy stipulates that a Registrar "must" deny a change of registrant request under certain circumstances, whereby such a stipulation was not recommended by the Working Group with respect to the outlined circumstances.

Based on these inconsistencies and lack of contemplation on the part of the Working Group as to how this particular language may impact various stakeholders, we would ask that ICANN review the implementation of the Working Group's recommendations and revise the Policy and implementation process accordingly. It should also be noted that because of the variety of business models present in the domain name space and wide array of customer situations that arise on a regular basis, registrars must have the flexibility to implement the general requirements of any new Policy in a way that is not overly restrictive or damaging to their business. Therefore the new Policy and the implementation thereof should not include any unnecessarily specific requirements that are either obstructive or otherwise inconsistent with the Report and intent of the Working Group.

Second, in my role as NameJet's General Manager, I help service thousands of customers that wish to sell and/or purchase good and valuable domain names in the domain name aftermarket. The proposed changes to the current Policy would overly restrict the efficient sale and transfer of domain names between registrants thereby severely hampering the established and thriving market for good and valuable domain names. Further, we would oppose the notion that a Prior Registrant must transmit a Change of Registrant Credential to a New Registrant when that Prior

Registrant has allowed the registration to expire and has no further rights regarding the domain name. To that end, it should be noted that the Working Group did not contemplate or recommend the implementation of a transfer approval process for the transfer of expired domain names to which prior registrants have no further rights.

In light of the foregoing, I urge ICANN to review and revise the proposed Policy language to better synchronize with the recommendations and intent of the Working Group. Thank you for your consideration and attention to this important policy development.

Sincerely,

A handwritten signature in black ink, appearing to be 'Jonathan Tenenbaum', with a large loop at the end of the signature.

JONATHAN TENENBAUM

May 15, 2015