Registries Stakeholder Group Comments

on the

Initial Report Inter-Registrar Transfer Policy (IRTP) Part D PDP

Due to time constraints, including travel schedules around the ICANN Singapore meeting, the Registries Stakeholder Group (RySG) did not take a formal vote on these comments. They were circulated on our mailing list and discussed; no Member expressed opposition to these positions.

The RySG would like to thank the ICANN staff and the IRTP PDP Part D Working Group for the time and effort that was expended in the creation of this report. These comments pertaining to the recommendations suggested in the Initial Report IRTP Part D PDP have been communicated to the RySG membership and are submitted on behalf of the RySG.

The RySG is generally supportive of all of the recommendations without further comment. We do offer additional comments on specific recommendations below:

Proposed Recommendations to Charter Question B

Recommendation #3: The WG recommends that the TDRP be amended as follows: "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."

RySG Comments: The RySG is supportive of this recommendation. It is the opinion of the RySG that an invalid transfer should be defined as a transfer that occurs in violation of the Inter-Registrar Transfer Policy. With regard to the question of whether costs would need to be refunded to registrars in case of negating/reversing transfer under a multiple-hop scenario, because the "undo" of a transfer in cases where it has been determined that the transfer occurred in violation of the IRTP changes only the Registrar of Record and the expiry date of the domain remains the same, it is the view of the RySG that there should be no refund of the registration fees (i.e. costs).

Recommendation #5: The WG recommends that the statute of limitation to launch a TDRP be extended from current 6 months to 12 months from the initial transfer. This is to provide registrants the opportunity to become aware of fraudulent transfers when they would no longer receive their registrar's annual WDRP notification.

RySG Comments: The RySG can support this recommendation but with reservation. Specifically, the longer the statute of limitations is to file a request for enforcement would also mean that there is greater opportunity for multiple transfers to occur between when the alleged violation occurred and the request for enforcement is filed.

Recommendation #6: The WG recommends that if a request for enforcement is initiated under the TDRP the relevant domain should be 'locked' against further transfers. The TDRP as well as

guidelines to registrars, registries and third party dispute providers should be modified accordingly.

RySG Comments: The RySG is supportive of this recommendation. Some TLD registries currently have a practice of 'locking' a domain name by applying serverTransferProhibited, serverDeleteProhibited and serverUpdateProhibited to the domain name upon receipt of a request for enforcement. In those cases, the 'lock' remains in place for the pendency of the case, including the period of time that a domain name dispute is appealed to a second level dispute resolution provider if the non-prevailing party elects to appeal the decision.

Proposed Recommendations to Charter Question C

The WG does not recommend that dispute options for registrants be developed and implemented as part of the current TDRP.

Recommendation #8: The WG recommends that the TDRP be modified to eliminate the First Level (Registry) layer of the TDRP.

RySG Comments: The RySG is supportive of this recommendation for several reasons. First, as the number of gTLDs and Registry Operators increases, the potential for inconsistencies in the interpretation and administration of the TDRP is likely to occur. Second, the expense that Registry Operators incur to have staff with the expertise to process and render decisions in dispute cases is not justified by the small number of disputes that are raised at the first level. Third, other ICANN dispute policies, specifically the UDRP and the URS, do not include the Registry Operator into the dispute process but, instead, call for dispute resolution providers that have been approved by ICANN as having the expertise necessary to adjudicate domain name disputes to handle disputes. Finally, with the vertical integration of Registry Operators and Registrars now possible, the potential for a conflict of interest exists if Registry Operators continue to be the first level layer of the TDRP. Consistent handling of cases by subject matter experts (i.e. dispute resolution providers approved by ICANN) has the potential to improve the overall TDRP process.