

GNSO gTLD Registries Stakeholder Group Comments

Issue: Preliminary Issue Report on the Inter-Registrar Transfer Policy Part D Policy

Date: 14 December 2012

Public Comment URL: <http://www.icann.org/en/news/public-comment/irtp-d-prelim-issue-report-14nov12-en.htm>

The Registries Stakeholder Group (RySG) would like to thank the ICANN staff for the time and effort that was expended in the creation of this report. These comments on the issue noted above are submitted on behalf of the RySG. The comments that follow represent a consensus position of the RySG as further detailed at the end of the document. The RySG comments were arrived at through a combination of RySG email list discussion and RySG meetings (including teleconference meetings).

Issue A: 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.

RySG Comments: The RySG is supportive of standardized reporting requirements for completed TDRP cases and allowing reference to past cases in dispute submissions as this would be consistent with UDRP panel decisions. Any disclosure of non-public information regarding transfers between registrars should be approved in writing by all registrars involved in the transfer dispute case prior to disclosure. Further, all dispute resolution providers should have input into and approval of the reporting requirements prior to implementation.

The TDRP encourages registrars to resolve disputes amongst themselves prior to initiating a dispute case at either the first or second level. Given the low number of transfer dispute cases filed at the registry level (only 145 disputes filed across all registries between October 2009 and September 2012), it seems that the majority of disputes are being resolved prior to going to the first (registry operators) or second level dispute resolution providers. Even with the very small number of disputes as compared with the number of transfers that are processed each day, all registry operators must maintain a process and experienced personnel to handle transfer dispute cases should any be received. With the introduction of new gTLDs, the number of registry operators will increase dramatically. Each of the registry operators may interpret and apply the TDRP differently. It may be time to eliminate the first level dispute resolution option managed at the registry level and have all disputes that are unable to be

resolved at the registrar level be submitted to a second level dispute resolution provider. Currently there are two approved TDRP second level dispute resolution providers – Asian Domain Name Dispute Resolution Centre and The National Arbitration Forum (both of which are also approved dispute resolution providers for the UDRP). Consistent handling of cases by subject matter experts has the potential to improve the overall dispute resolution process.

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

RySG Comments: Under the TDRP, a dispute must be filed within six months of the violation date. Consistent application of the 60 day restriction on inter-registrar transfers after a transfer should help to reduce the instances of multiple transfers. The RySG would support consideration of a modification to the TDRP to clarify the impact of a fraudulent transfer on subsequent transfers.

Issue C: 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).

RySG Comments: The RySG supports dispute options for registrants. There should be clear avenues for registrants to make a complaint or file a dispute case, but the first option should always be to go through the registrar. Because the potential for gaming is high, careful consideration should be made in determining secondary options if the registrar is unresponsive. Just one potential issue associated with a direct dispute mechanism for registrants is the inability of parties other than the registrar to authenticate the registrant.

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

RySG Comments: The RySG commends ICANN on the steps that they have taken to provide information to registrants on the transfer process in the form of information on their website including frequently asked questions, one of which includes a link to the Transfer Dispute Resolution Policy. The RySG is supportive of establishing best practices, and perhaps requirements, for making information on how to initiate a transfer, as well as transfer dispute options

available to registrants via the registrar. Most registrants should know who their registrar is so registrar web sites would be a logical place where registrants would go for answers to questions relating to transferring their domain name. It is the RySG's opinion that information for registrants on how to file a dispute should they feel that their domain name was transferred without their authorization, or if their registrar of record is prohibiting the transfer of their domain name for a reason that is in direct conflict with the IRTP, also be included. Implementation of agreed upon best practices could be as simple as requiring all registrars to provide a link on their web site to the best practices that could be hosted and maintained by ICANN.

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

RySG Comments: With the modifications introduced in the 2009 Registrar Accreditation Agreement that provide for enforcement measures for non-compliance, the RySG is satisfied that there are adequate remedies to encourage resolution of non-compliance with the IRTP and TDRP.

Issue F: Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need for FOAs.

RySG Comments: The FOA is a key document in the transfer dispute resolution process and the elimination of the FOA would critically impact it. It is the recommendation of the RySG that the FOA requirement not be eliminated given that a mechanism to capture information adequate to document the chain of events that prove registrant authentication and authorization of the initiation of the transfer request would still be necessary to facilitate resolution of disputes.

Finally, the RySG also wishes to underscore the importance of explicitly addressing the role resellers play in all of the issues that will be reviewed in IRTP-D. The domain name industry is changing, and vertical integration could amplify potential complications involving reseller relationships. While the RySG does not have specific comments at this time on how resellers may (or may not) factor into each of the issues that will be considered in this PDP, we encourage the Working Group to explicitly consider resellers' roles and develop appropriate recommendations that might help minimize community misunderstandings about reseller responsibilities moving forward.

RySG Level of Support

1. Level of Support of Active Members: [Majority]

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|--------------------------------------|----|
| 1.1. # of Members in Favor: | 11 |
| 1.2. # of Members Opposed: | 0 |
| 1.3. # of Members that Abstained: | 0 |
| 1.4. # of Members that did not vote: | 3 |

2. Minority Position(s): None

General RySG Information

- Total # of eligible RySG Members¹: 14
- Total # of RySG Members: 14
- Total # of Active RySG Members²: 14
- Minimum requirement for supermajority of Active Members: 10
- Minimum requirement for majority of Active Members: 8
- # of Members that participated in this process: 14
- Names of Members that participated in this process:
 1. Afiliás (.info, .mobi & .pro)
 2. DotAsia Organisation (.asia)
 3. DotCooperation (.coop)
 4. Employ Media (.jobs)
 5. Fundació puntCAT (.cat)
 6. ICM, Inc. (.xxx)
 7. Museum Domain Management Association – MuseDoma (.museum)
 8. NeuStar (.biz)
 9. Public Interest Registry - PIR (.org)
 10. Societe Internationale de Telecommunication Aeronautiques – SITA (.aero)
 11. Telnic (.tel)
 12. Tralliance Registry Management Company (TRMC) (.travel)
 13. Universal Postal Union (.post)
 14. VeriSign (.com, .name, & .net)

¹ All top-level domain sponsors or registry operators that have agreements with ICANN to provide Registry Services in support of one or more gTLDs are eligible for membership upon the “effective date” set forth in the operator’s or sponsor’s agreement (RySG Charter, Article II, RySG Membership, Sec. A). The RySG Charter can be found at http://www.gtldregistries.org/sites/gtldregistries.org/files/Charter_for_RySG_6_July_2011_FINAL.pdf

² Per the RySG Charter, Article II, RySG Membership, Sec.D: Members shall be classified as “Active” or “Inactive”. An active member must meet eligibility requirements, must be current on dues, and must be a regular participant in RySG activities. A member shall be classified as Active unless it is classified as Inactive pursuant to the provisions of this paragraph. Members become Inactive by failing to participate in three consecutively scheduled RySG meetings or voting processes or both. An Inactive member shall continue to have membership rights and duties except being counted as present or absent in the determination of a quorum. An Inactive member immediately resumes Active status at any time by participating in a RySG meeting or by voting.

- Names & email addresses for points of contact
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