ICANN 12 FEBRUARY 2015 BOARD MEETING
Reference Materials

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Annex A

GNSO Council Report to the Board for the adoption of the IRTP Part D PDP Recommendations

1. Executive Summary

The Generic Names Supporting Organization (GNSO) unanimously approved at its meeting on 15 October 2014 the 18 recommendations of the Inter-Registrar Transfer Policy (IRPT) Part D Policy Development Process (PDP) and is now seeking Board review and approval.

The Inter-Registrar Transfer Policy (IRTP) is a consensus policy that provides a mechanism for to transfer domain names between different registrars. In case of inter-registrar transfers that are alleged to not comply with the policy, the Transfer Dispute Policy (TDRP) provides all necessary remedies.

The recommendations are expected to address the six Charter questions that have guided this PDP. Below you find an abbreviated version of these recommendations; the full text can be found in Annex A of the Final Report.

The following policy recommendations, if approved by the Board, will impose new obligations on certain contracted parties. The GNSO Council's unanimous vote in favor of these items exceeds the voting threshold required at Article X, Section 3.9.f of the ICANN Bylaws regarding the formation of consensus policies.

Under the ICANN Bylaws, the Council's supermajority support for the motion[1] obligates the Board to adopt the recommendations unless by a vote of more than two-thirds, the Board determines that the policy is not in the best interests of the ICANN community or ICANN.

Charter Question 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.

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[1] The motion was passed unanimously by the GNSO Council – see
http://gnso.icann.org/en/council/resolutions#20141015-1

Recommendation #1. Reporting requirements to be incorporated into the TDRP policy.

Recommendation #2. The TDRP to be amended to include language along the lines of […] the UDRP.

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.

Recommendation #3. The TDRP to be amended to reflect the following wording, or equivalent: "Transfers from a Gaining Registrar to a third registrar, and all other subsequent transfers, are invalidated 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."

Recommendation #4. A domain name to be returned to the Registrar of Record and Registrant of Record directly prior to the non-compliant transfer if it is found, through a TDRP procedure, that a non-IRTP compliant domain name transfer occurred.

Recommendation #5. The statute of limitation to launch a TDRP to be extended from currently 6 months to 12 months from the initial transfer.

Recommendation #6. If a request for enforcement is initiated under the TDRP the relevant domain should be 'locked' against further transfers while such a request for enforcement is pending. Accordingly, 'TDRP action' and 'URS action' are to be added to the second bullet point of the list of denial reasons in the IRTP (Section 3); the IRTP and TDRP should be amended accordingly.

Charter Question 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).

Recommendation #7. Add a list of definitions (Annex F) to the TDRP to allow for a clearer and more user-friendly policy.

Recommendation #8. Not to develop dispute options for registrants as part of the current TDRP.

Recommendation #9. In close cooperation with the IRTP Part C implementation review team, ensure that the IRTP Part C inter-registrant transfer recommendations are implemented and monitor whether dispute resolution mechanisms are necessary to cover the Use Cases in Annex C. Once such a policy is implemented, its functioning should be

closely monitored, and if necessary, an Issues Report be called for to assess the need for an inter-registrant transfer dispute policy.

Recommendation #10. The TDRP to be modified to eliminate the First (Registry) Level of the TDRP.

Recommendation #11. ICANN to take the necessary steps to display information relevant to disputing non-compliant transfers prominently on its web site and assure the information is presented in a simple and clear manner and is easily accessible for registrants.

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

Recommendation #12. ICANN to create and maintain a user-friendly, one-stop website containing all relevant information concerning disputed transfers and potential remedies to registrants. Such a website should be clearly accessible from or integrated into the ICANN Registrants' Benefits and Responsibilities page (https://www.icann.org/resources/pages/benefits-2013-09-16-en) or similar.

Recommendation #13. As a best practice, ICANN accredited Registrars to prominently display a link on their website to this ICANN registrant help site. Registrars should also strongly encourage any re-sellers to display prominently any such links, too. Moreover, this is to be communicated to all ICANN accredited Registrars.

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

Recommendation #14. No additional penalty provisions to be added to the existing IRTP or TDRP.

Recommendation #15. As a guidance to future policy development processes, policy specific sanctions to be avoided wherever possible.

Charter Question F
Whether existing penalties for policy violations are sufficient or if additional provisions/penalties for specific violations should be added into the policy.

Recommendation #16. Not to recommend the elimination of FOAs. However, in light of the problems regarding FOAs, such as bulk transfers and mergers of registrars and/or

resellers, it is recommended that the operability of the FOAs should not be limited to email. Improvements could include: transmission of FOAs via SMS or authorization through interactive websites. Any such innovations must, however, have auditing capabilities, as this remains one of the key functions of the FOA.

Addition Recommendations:

Recommendation #17. Once all IRTP recommendations are implemented (incl. IRTP-D, and remaining elements from IRTP-C), the GNSO Council, together with ICANN staff, should convene a panel to collect, discuss, and analyze relevant data to determine whether these enhancements have improved the IRTP process and dispute mechanisms, and identify possible remaining shortcomings.

Recommendation #18. Contracted parties and ICANN should start to gather data and other relevant information that will help inform a future IRTP review team in its efforts, especially with regard to those issues listed in the Observations (4.2.7.1) above.

2. If a Successful GNSO Vote was not reached, a clear statement of all positions held by Council members. Each statement should clearly indicate (i) the reasons underlying each position and (ii) the constituency(ies) or Stakeholder Group(s) that held that position.

N/A

3. An analysis of how the issue(s) would affect each Constituency or Stakeholder Group, including any financial impact on the constituency or Stakeholder Group.

The IRTP concerns Registrars and it is this Stakeholder Group that will be mostly affected by the recommendations that have come out of this PDP. The adoption of the recommendations is expected to clarify and standardize the IRTP and the related Transfer Dispute Resolution Policy (TDRP) that were both under consideration by the PDP. Thus, the greatest benefit will come from the improved operability of the TDRP and a centralized location of information for dispute resolution option(s) on the ICANN website. No monetary cost/benefit analysis has been carried out for this PDP, but this policy changes will eliminate the least expensive, formal dispute resolution channel available to registrars for contesting transfers that were allegedly effected in breach of the IRTP. Because formal disputes are fairly uncommon [2](, this won't have a substantial financial impact in the aggregate, but as some registrars might decline to use the TDRP's remaining, more expensive, dispute resolution channel, some affected registrants might

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[2] Between 2009 and 2013 only 154 TDRP cases were filed with Verisign – 109 of which were requests for enforcement of the IRTP. See also Section 4.1.1. of the Final Report.

be left without recourse within the IRTP framework. Still, Group members noted in their discussions, in most cases of alleged non-compliant disputes, registrars communicate among each other to solve problems and the vast majority of potential conflicts are dealt with successfully in this way.

The recommended changes to the TDRP are expected to lead to an improvement in visibility, transparency, and consistency of the TDRP and its application. It is also expected to reduce the practice of 'domain name hopping'[3] as a component of fraudulent transfers. The discontinuation of the Registry layer as the first level of dispute resolution under the TDRP is expected to benefit gTLD Registries, especially new gTLD Registries who would otherwise have to train staff in a policy that is rarely used creating costs that might be passed on to Registrars and subsequently registrants.

Finally, the additional recommendation on a future review of the IRTP – once all remaining IRTP recommendations have been implemented for at least a year – should lead to a data-driven assessment of the policy's functionality and effectiveness of the changes from the original IRTP. This approach is particularly welcomed by the Registries Stakeholder Group, as they pointed out in their public comment submission (see Section 9. below). The current estimation is that such a review would start at the earliest in 2017.

4. An Analysis of the period of time that would likely be necessary to implement the policy.

Staff will need to carry out further analysis of some of these recommendations to assess how they can be best implemented – especially those related to the improvements of the ICANN website. Staff will produce an internal implementation project plan that will involve several ICANN departments, such as Contractual Compliance, General Counsel's Office, and Global Domains Division. Based on this, staff will then publish a public implementation plan. From this, the work will progress and staff will be in a position to share a proposed implementation plan with the GNSO Implementation Review Team which will be created following the adoption by the ICANN Board of these recommendations. This initial planning would likely happen within two or three months of the adoption of these recommendations.

The final two recommendations prescribe a future review of the IRTP and TDRP, as well as, the gathering of relevant data by contracted parties and ICANN to facilitate such a review. The implementation of these recommendations will depend on the completion of implementation for all other IRTP recommendations, including IRTP Part D. Staff

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[3] Domain hopping refers to a quick succession of inter-registrar transfers – potentially to disguise a fraudulent transfer at the beginning of said transfer chain.

estimates that the implementation of all recommendations from this PDP – including the changes to the ICANN website and re-drafting of some section of the policy – will take between 12 and 18 months. The recommended review would need all recommendations to be fully implemented and in operation before information can be gathered for at least 12 months to provide relevant data for the review. Therefore, the start of the latter is expected not to take place before 2017. The GNSO is aware of this time gap and IRTP-D Working Group members discussed it during their deliberations.

5. The Advice of any outside advisors relied upon, which should be accompanied by a detailed statement of the advisor's (i) qualifications and relevant experience; and (ii) potential conflicts of interest.

No outside advisor provided input to the Working Group. However, the National Arbitration Forum (NAF) participated actively in the Working Group – and they will be impacted by the removal of the registry level as the first level of arbitration of the TDRP. Specifically, as a First-Level TDRP service provider, they may benefit from the elimination of the first level of arbitration currently provided by gTLD registries, but they will also have to bear the costs of the publication of decisions, etc. similar to other TDRP providers. Furthermore, the Working Group solicited the Asian Doman Name Dispute Resolution Centre (ADNDRC) for input which they provided, but ADNDRC did not participate in the Working Group itself.

6. The Final Report Submitted to the Council
The IRTP Part D Final Report can be found here:
- Final Report
- Translations have been provided in:
  - Arabic, Chinese, French, Portuguese, Russian and Spanish

7. A copy of the minutes of the Council deliberation on the policy issue, including all opinions expressed during such deliberation, accompanied by a description of who expressed such opinions.

See http://gnso.icann.org/en/group-activities/calendar#oct - October 15th Meeting

8. Consultations undertaken

External

Shortly after the start of the PDP Working Group, members reached out to ICANN's Supporting Organizations and Advisory Committees as well as the GNSO's Stakeholder Groups and Constituencies to seek input on the six Charter questions. See: https://community.icann.org/download/attachments/41883703/publicreview.pdf?version= 1&modificationDate=1369049548000&api=v2

In line with the PDP Manual, the Initial Report was also published for public comment following its release on 3 March 2014 – see http://www.icann.org/en/news/public-comment/irtp-d-initial-03mar14-en.htm.

The Working Group met in public during ICANN 46, 47, 48, 49 and 50 to report on its process and seek community feedback. Transcripts can be found here:

http://beijing46.icann.org/meetings/beijing2013/transcript-irtp-d-10apr13-en.pdf
http://durban47.icann.org/meetings/durban2013/transcript-irtp-d-17jul13-en.pdf
http://buenosaires48.icann.org/en/schedule/wed-irtp-d/transcript-irtp-d-20nov13-en.pdf
http://singapore49.icann.org/en/schedule/wed-irtp-d/transcript-irtp-d-26mar14-en.pdf
https://london50.icann.org/en/schedule/mon-irtp-d/transcript-irtp-d-23jun14-en.pdf

All comments received have been reviewed and considered by the IRTP Part D PDP Working Group (See Section 5 of Final Report).

Internal

Regular updates were provided to ICANN Contractual Compliance, General Counsel's Office, and the Registrar Services team. Some of their team members attended WG calls on a regular basis and joined the Group for their face-to-face meetings. Their feedback was very constructive and aided in consensus formation among Working Group members.

9. Summary and Analysis of Public Comment Forum to provide input on the Inter-Registrar Transfer Policy Part D Recommendations, adopted by the GNSO Council prior to ICANN Board consideration.

A public comment forum was opened on 20 October 2014 to solicit feedback on the recommendations prior to ICANN Board consideration. See https://www.icann.org/public-comments/irtp-d-recommendations-2014-10-20-en. Two comments were received - see Report of Public Comments. The Registries Stakeholder Group supported the recommendations, especially the future review of the policy based

on relevant data. In addition, John Horton provided feedback, particularly relating to the issue of rogue Internet pharmacies; however his comments were deemed by the Working Group to be out of scope of the PDP's Charter. See the public comment report: https://www.icann.org/en/system/files/files/report-comments-irtp-d-recommendations-12dec14-en.pdf

10. Impact/Implementation Considerations from ICANN Staff

As noted above, staff will need to carry out further analysis of the recommendations in order to determine how these can be best implemented. Following that, staff will be able to share a proposed implementation plan with the Implementation Review Team (IRT) that is yet to be formed. Staff would like to point out to the Board that the scope of some of the recommendation means that their implementation might, in some cases, proof challenging. These issues and all other pertinent information will be listed in the implementation plan and shared with the implementation review team, once formed. Similarly, additional issues might arise that staff would aim to address in consultation with the Implementation Review Team, some have already been raised by ICANN Compliance and thus will be communicated to the IRT in due course.

It is expected that considerable staff resources will be needed, especially to support the future review of the policy, once all other recommendations are implemented. It is important to note that the collection of data needed will require cooperation from registrars and registries. This is beyond the control of staff and might impact on the timely delivery of the implementation. Still, allocation of the required resources will assure an in-depth analysis of a policy that currently still leads to several thousand complaints each year to ICANN Contractual Compliance.

Finally, time and resources will be required to ensure that the implementation is accompanied with the appropriate materials to ensure efficient implementation and community acceptance of the new requirements to all parties involved. Also, cooperation between different ICANN departments will be necessary since changes to consensus policy, to the website and to the operational changes for contracted parties are all part of this implementation.

Annex A: Extract from the IRTP Part D PDP WG Final Report

Charter Question 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.

Recommendation #1 - The WG recommends that reporting requirements be incorporated into the TDRP policy. Outcomes of all rulings by Dispute Resolution Providers (DRP) [4] should be published on Providers' website, except in exceptional cases – in keeping with practices currently employed in the UDRP. Exceptions, if sought by the DRP, are to be granted by ICANN Contractual Compliance on a case-by-case basis. The Group recommends publishing reports that follow the example of the Asian Domain Name Dispute Resolution Centre (ADNDRC).[5] These reports should include at a minimum:

a) The domain name under dispute
b) Relevant information about parties involved in the dispute;
c) The full decision of the case;
d) The date of the implementation of the decision

The need for publication does not apply to TDRP rulings that have taken place prior to the implementation of this recommendation.

Recommendation #2 - The WG recommends that the TDRP be amended to include language along the lines of this revised version of the UDRP:
"The relevant Dispute Resolution Provider shall report any decision made with respect to a transfer dispute initiated under the TDRP. All decisions under this Policy will be published in full over the Internet except when the Panel, convened by the Dispute Resolution, in an exceptional case, determines to redact portions of its decision. In any event, the portion of any decision determining a complaint to have been brought in bad faith shall be published."

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.

Recommendation #3 - The WG recommends that the TDRP be amended to reflect the following wording, or equivalent: "Transfers from a Gaining Registrar to a third registrar, and all other subsequent transfers, are invalidated 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."

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[4] The Working Group recommends in Charter question C to remove the Registry as the first dispute resolution layer of the TDRP. Therefore, despite wording of Charter question A, no reporting requirements for the Registries are included here.
[5] See four ADNDRC Reports on TDRP decisions: http://www.adndrc.org/mten/TDRP_Decisions.php?st=6

Recommendation #4 - The WG recommends that a domain name be returned to the Registrar of Record and Registrant of Record directly prior to the non-compliant transfer if it is found, through a TDRP procedure, that a non-IRTP compliant domain name transfer occurred.

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.

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 while such request for enforcement is pending. Accordingly, 'TDRP action' and 'URS action' are to be added to the second bullet point of the list of denial reasons in the IRTP (Section 3); the IRTP and TDRP should be amended accordingly.[6]
The TDRP as well as guidelines to registrars, registries and third party dispute providers should be modified accordingly. The WG notes that the locking should be executed in the way that the UDRP prescribes – once that the UDRP locking process is implemented.

Charter Question 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);

Recommendation #7 - The WG recommends to add a list of definitions (Annex F) to the TDRP to allow for a clearer and more user-friendly policy.

Recommendation #8 - The WG recommends not to develop dispute options for registrants as part of the current TDRP.

Recommendation #9 - The WG recommends that staff, in close cooperation with the IRTP Part C Implementation Review Team, ensures that the IRTP Part C inter-registrant transfer recommendations are implemented and monitor whether dispute resolution mechanisms are necessary to cover the Use Cases in Annex C. Once such a policy is implemented, its functioning should be closely monitored, and if necessary, an Issues Report be called for to assess the need for an inter-registrant transfer dispute policy.

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[6] https://www.icann.org/resources/pages/policy-transfers-2014-07-02-en

See also Recommendations #17 and #18 below.

Recommendation #10 - The WG recommends that the TDRP be modified to eliminate the First (Registry) Level of the TDRP.
ICANN should monitor the use of TDRPs and if the discontinuation of the Registry layer as first level dispute provider seems to create a barrier to this dispute resolution mechanism, future policy work should be initiated to counter such development. See also #17 below.

Recommendation #11 - The WG recommends that ICANN take the necessary steps to display information relevant to disputing non-compliant transfers prominently on its web site and assure the information is presented in a simple and clear manner and is easily accessible for registrants.
This recommendation should be view in combination with Recommendation #12 (below).

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

Recommendation #12 - The WG recommends that ICANN create and maintain a user-friendly, one-stop website containing all relevant information concerning disputed transfers and potential remedies to registrants. Such a website should be clearly accessible from or integrated into the ICANN Registrants' Benefits and Responsibilities page (https://www.icann.org/resources/pages/benefits-2013-09-16-en) or similar.

This should include:
- Information to encourage registrants to contact the registrar to resolve disputed transfers at the registrar level before engaging ICANN Compliance or third parties by launching a TDRP.
- Improvements to the ICANN website regarding the display of information on the Inter Registrar Transfer Policy and the Transfer Dispute Resolution Policy is regularly updated (see 5.2.3.3 above).
- Links to the relevant information for registrants on the ICANN website being clearly worded and prominently displayed on the ICANN home page. This will contribute to improving visibility and content of the ICANN website that is devoted to offering guidance to registrants with transfer issues.
- ICANN Compliance clearly indicates on its FAQ/help section under which circumstances it can assist registrants with transfer disputes. This should include

situations when registrants can ask ICANN Compliance to insist on registrars taking action on behalf of said registrant.

- Improvements in terms of accessibility and user-friendliness should be devoted especially to these pages:
    - https://www.icann.org/resources/pages/dispute-resolution-2012-02-25-en#transfer
    - https://www.icann.org/resources/pages/name-holder-faqs-2012-02-25-en
    - https://www.icann.org/resources/pages/text-2012-02-25-en

Links to these registrant help-websites should also be prominently displayed on internic.net and iana.org in order to assure further that registrants have easy access to information.

Recommendation #13 - The WG recommends that, as a best practice, ICANN accredited Registrars prominently display a link on their website to this ICANN registrant help site. Registrars should also strongly encourage any re-sellers to display prominently any such links, too. Moreover, the Group recommends that this is communicated to all ICANN accredited Registrars.
Registrars may choose to add this link to those sections of their website that already contains Registrant-relevant information such as the Registrant Rights and Responsibilities, the WHOIS information and/or other relevant ICANN-required links as noted under 3.16 of the 2013 RAA.

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

Recommendation #14 - The WG recommends that no additional penalty provisions be added to the existing IRTP or TDRP.

Recommendation #15 - As a guidance to future policy development processes, this Working Group recommends that policy specific sanctions be avoided wherever possible. Rather, sanctions should be consistent throughout policies and be governed by applicable provisions within the RAA.

Charter Question F
Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need of FOAs.

Recommendation #16 - The WG does not recommend the elimination of FOAs. However, in light of the problems regarding FOAs, such as bulk transfers and mergers of registrars and/or resellers, the Group recommends that the operability of the FOAs should not be limited to email. Improvements could include: transmission of FOAs via SMS or authorization through interactive websites. Any such innovations must, however, have auditing capabilities, as this remains one of the key functions of the FOA.

The Working Group notes that the implementation of this recommendation should not be affected by whether transfers take place in advance (for certain bulk transfers) or in real time.

Additional Recommendations

Recommendation #17 The WG recommends that, once all IRTP recommendations are implemented (incl. IRTP-D, and remaining elements from IRTP-C), the GNSO Council, together with ICANN staff, should convene a panel to collect, discuss, and analyze relevant data to determine whether these enhancements have improved the IRTP process and dispute mechanisms, and identify possible remaining shortcomings.

If, after a period of 12 months of such a review, the GNSO (with ICANN Staff) determine that the situation regarding transfers is not improved, then this WG recommends that a top-to-bottom reevaluation of the transfer process be undertaken. The goal of this is to create a simpler, faster, more secure policy that is more readily understood and more accessible to use for registrants."

It is a further recommendation that a security expert be included in any such next review Working Group, should for example real 2-factor authentication be required, that it is implemented according to industry standards.

Recommendation #18 - The Working Group recommends that contracted parties and ICANN should start to gather data and other relevant information that will help inform a future IRTP review team in its efforts, especially with regard to those issues listed in the Observations (4.2.7.1) above.

To facilitate the gathering of relevant data, the Implementation Review Team should closely liaise with ICANN Staff to assure prompt access to necessary data.

REFERENCE MATERIALS - BOARD SUBMISSION NO. 2015.02.12.1d

Annex B

Input Tracking – GNSO PDP Recommendations

The purpose of this checklist is to assist the Board in assuring that all parties with an interest have had an opportunity to participate and weigh in on the recommendations arising out of the GNSO PDP, and to provide a summary of how those inputs were considered.   This checklist should be included with the Board paper transmitting the policy recommendations to the Board for decision.

ISSUE: __Inter-Registrar Transfer Policy Part D Policy Development Process__

DATE OF COUNCIL APPROVAL: 15 October 2014

Public Comment[1]

Identify all documents submitted for public comment as part of the consideration of this issue and the dates of the public comment forums. Also identify the total number of commenters. Also note any open mic/forum sessions on the topic. Include link to the summary and analysis of public comments.[2] In the "outreach efforts" column, please identify the actions taken to publicize the comment period or meeting to encourage participation.

Comment Period Dates or Meeting Date	Dates opened / closed or Meeting date	Number of commenters	Outreach Efforts
Initiation of PDP – Request for Input	14 November 2012 – 14 December 2012	2	Broadly circulated, incl. announcement on ICANN web-site
Public meeting at ICANN46	10 April 2013		Public session
Public meeting at ICANN47	17 July 2013		Public session
Public meeting at ICANN48	20 November 2013		Public session
Initial Report	3 March-25 April 2013	5	Broadly circulated, incl. announcement on ICANN web-site and video message

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[1] This checklist is not intended as a replacement for full public comment summaries. Rather, this checklist is a supplement to the comment summarization work, to identify in a quick manner that key inputs were received and taken into consideration prior to the issue reaching the Board.

[2] Required public comment sessions upon presentation of the GNSO Recommendations to the Board will be tracked separately.

			from WG Chairs
Presentation of Initial Report to the Community during ICANN49	26 March 2014		Public session
Public meeting at ICANN50 to receive input for Final Report	23 June 2014		Public session
Recommendations subject to Board consideration	20 October – 10 November 2014	4	Broadly circulated, incl. announcement on ICANN web-site

Tracking of GNSO or Stakeholder Inputs

For each GNSO Stakeholder Group, Constituency, or Advisory Committee identified below, identify if any input was received, and provide a brief summary of how those inputs were considered. The brief summary should include whether the stakeholder group at issue voiced any opposition to the items under consideration and whether any changes were recommended to the recommendations. Note: In some cases, certain Stakeholder Groups may make comments through component constituencies instead of through a collective statement of the Stakeholder Group. Only comments that are provided on behalf of one of the identified SGs or Constituencies should be recorded in this section.

Group	Requested	Received	Summary of Action on Input
GNSO Council	Yes	Yes	Approved by the GNSO Council on 15 October 2014.
Registrar Stakeholder Group	Yes	No	
Registry Stakeholder Group	Yes	Yes	WG reviewed and addressed input received: Issue Report; WG reviewed and addressed input received
Commercial Stakeholder Group	Yes	No	
Business Constituency	Yes	Yes	WG reviewed and addressed input received: Initial Report; Prior to Board Consideration
IPC Constituency	Yes	No	
ISP Constituency	Yes	No	
Non-Commercial Stakeholder Group	Yes	No	
Non-Commercial Users Constituency	Yes	No	
Not for Profit Operational	Yes	No	

Concerns Constituency			

Group	Requested	Received	Summary of Action on Input
ccNSO	Yes	No	
ASO	Yes	No	
At-Large Advisory Committee	Yes	Yes	WG reviewed and addressed input received: Initial Report
Governmental Advisory Committee[3]	Yes	No	
RSSAC	Yes	No	
SSAC	Yes	No	

Specific Outreach and Emerging Interests

If the working group or the GNSO Council performed any specific outreach to groups not identified above for advice or assistance on the issues under discussion, please identify the groups/entities consulted, the inputs received and how they were considered. In addition, if a definable group of collective interests emerge during a PDP and is not listed above, those collective inputs should be identified below. In the "outreach efforts" column, please identify the actions taken to identify key interested parties to encourage their participation. Also note if there are any groups identified as key that did not respond to outreach efforts.

Entity/Group	Outreach efforts	How inputs were considered
National Arbitration Forum (TDRP Provider)	Yes	WG discussed their input – reflect in Final Report
Asian Domain Name Dispute Resolution Centre (TDRP Provider)	Yes	WG discussed their input – reflect in Final Report

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[3] Formal GAC advice to the Board will be tracked through the GAC registry process.

Final Report on the
Inter-Registrar Transfer Policy - Part D
Policy Development Process

STATUS OF THIS DOCUMENT

This is the Final Report on IRTP Part D PDP, prepared by ICANN staff for submission to the GNSO Council on 25 September 2014.

SUMMARY

This report is submitted to the GNSO Council for its consideration as a required step in this GNSO Policy Development Process on the Inter-Registrar Transfer Policy. [1]

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[1] This report will be translated in all UN languages. Please note that only the English version is authoritative.

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1.   Executive Summary

1.1   Background

The Inter-Registrar Transfer Policy (IRTP) provides the policy framework for domain name transfers between registrars. The IRTP also provides standardized requirements for inter-registrar transfer disputes - through the Transfer Dispute Resolution Policy (TDRP). The policy is an existing community consensus policy that was implemented in late 2004 and has been revised numerous times since then.[2] The IRTP Part D Policy Development Process (PDP) is the forth and final PDP of this series of revisions. The Generic Names Supporting Organization (GNSO) Council resolved at its meeting on 17 October 2012 to launch an Issue Report on IRTP Part D, "which should include all the remaining issues identified by the original transfers Working Groups as well as the additional issue identified by the IRTP Part C WG."

1.2   Deliberations of the Working Group

The IRTP Part D Working Group (WG) started its deliberations on 25 February 2013 where it decided to conduct its work through combination of weekly conference calls and conversation on a publicly archived email list. The Working Group also met face-to-face during the ICANN Meetings in Beijing, Durban, Buenos Aires, Singapore and London. Section 4.2 provides an overview of these deliberations.

1.3   Recommendations

Please note that this is an abbreviated version of the recommendations. The Working Group has provided additional background and information for most of these recommendations which can be found in Section 4. It covers the Working Groups deliberations and full-length recommendations.

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[2] IRTP A: http://gnso.icann.org/en/group-activities/inactive/2008/irtp; IRTP B: http://gnso.icann.org/en/group-activities/active/irtp-b; IRTP C: http://gnso.icann.org/en/group-activities/active/irtp-c

1.3.1   Recommendations to Charter Question 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.

Recommendation #1.   The WG recommends that reporting requirements be incorporated into the TDRP policy.

Recommendation #2.   The WG recommends that the TDRP be amended to include language along the lines of […] the UDRP.

1.3.2   Recommendations to 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.

Recommendation #3.   The WG recommends that the TDRP be amended to reflect the following wording, or equivalent: "Transfers from a Gaining Registrar to a third registrar, and all other subsequent transfers, are invalidated 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."

Recommendation #4.   The WG recommends that a domain name be returned to the Registrar of Record and Registrant of Record directly prior to the non-compliant transfer if it is found, through a TDRP procedure, that a non-IRTP compliant domain name transfer occurred.

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.

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 while such request for enforcement is pending. Accordingly, 'TDRP action' and 'URS action' are to be added to the second bullet point of the list of denial reasons in the IRTP (Section 3); the IRTP and TDRP should be amended accordingly.

1.3.3   Recommendations to Charter Question 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).

Recommendation #7.   The WG recommends to add a list of definitions (Annex F) to the TDRP to allow for a clearer and more user-friendly policy.

Recommendation #8.   The WG recommends not to develop dispute options for registrants as part of the current TDRP.

Recommendation #9.   The WG recommends that staff, in close cooperation with the IRTP Part C implementation review team, ensures that the IRTP Part C inter-registrant transfer recommendations are implemented and monitor whether dispute resolution mechanisms are necessary to cover the Use Cases in Annex C. Once such a policy is implemented, its functioning should be closely monitored, and if necessary, an Issues Report be called for to assess the need for an inter-registrant transfer dispute policy.

Recommendation #10. The WG recommends that the TDRP be modified to eliminate the First (Registry) Level of the TDRP.

Recommendation #11. The WG recommends that ICANN take the necessary steps to display information relevant to disputing non-compliant transfers prominently on its web site and assure the information is presented in a simple and clear manner and is easily accessible for registrants.

1.3.4   Recommendations to Charter Question D

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

Recommendation #12. The WG recommends that ICANN create and maintain a user-friendly, one-stop website containing all relevant information concerning disputed transfers and potential remedies to registrants. Such a website should be clearly accessible from or integrated into the ICANN Registrants' Benefits and Responsibilities page (https://www.icann.org/resources/pages/benefits-2013-09-16-en) or similar.

Recommendation #13. The WG recommends that, as a best practice, ICANN accredited Registrars prominently display a link on their website to this ICANN registrant help site. Registrars should also strongly encourage any re-sellers to display prominently any such links, too. Moreover, the Group recommends that this is communicated to all ICANN accredited Registrars.

1.3.5 Recommendations to Charter Question E

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

Recommendation #14. The WG recommends that no additional penalty provisions be added to the existing IRTP or TDRP.

Recommendation #15. As a guidance to future policy development processes, this Working Group recommends that policy specific sanctions be avoided wherever possible.

1.3.6 Recommendation to Charter Question F

Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need of FOAs.

Recommendation #16. The WG does not recommend the elimination of FOAs. However, in light of the problems regarding FOAs, such as bulk transfers and mergers of registrars and/or resellers, the Group recommends that the operability of the FOAs should not be limited to email. Improvements could include: transmission of FOAs via SMS or authorization through interactive websites. Any such innovations must, however, have auditing capabilities, as this remains one of the key functions of the FOA.

1.3.7 Additional Recommendation

Recommendation #17. The WG recommends that, once all IRTP recommendations are implemented (incl. IRTP-D, and remaining elements from IRTP-C), the GNSO Council, together with ICANN staff, should convene a panel to collect, discuss, and analyze relevant data to

determine whether these enhancements have improved the IRTP process and dispute mechanisms, and identify possible remaining shortcomings.

Recommendation #18. The Working Group recommends that contracted parties and ICANN should start to gather data and other relevant information that will help inform a future IRTP review team in its efforts, especially with regard to those issues listed in the Observations (4.2.7.1) above.

1.4   Stakeholder Group / Constituency Statements & Initial Public Comment Period

A public comment forum was opened upon initiation of the Working Group activities. The public comment period ran from 14 November to 14 December 2012. One (1) community submission was received from the gTLD Registry Stakeholder Group. The WG also requested all GNSO Stakeholder Groups and Constituencies, as well as other ICANN Support Organizations (SOs) and Advisory Committees (ACs), to submit their statements on the IRTP Part D issues (see Annex B); one (1) contribution was received. The Working Group published its Initial Report on 3 March 2014, opening a Public Comment Forum the same day. The Public Comment Reply Period closed on 25 April and the WG received four (4) submissions. The WG reviewed the comments in detail;[3] how these were addressed and factored into the Final Recommendations can be found in Section 4. Further information on the community input obtained and how this input was considered by the WG can be found in Section 5.

1.5   Level of consensus and expected implications

All 17 recommendations in this Final Report received full consensus support from the Working Group Members.

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[3] See the Working Group's Public Comment Review Tool: https://community.icann.org/x/4phwAg

2.   Objectives and Next Steps

This Final Report on the Inter-Registrar Transfer Policy (IRTP) Part D Policy Development Process (PDP) is prepared as required by the GNSO Policy Development Process as stated in the ICANN Bylaws, Annex A. This Final Report is based on the Initial Report of 3 March 2014 and has been updated to reflect the review and analysis of the public comments received by the IRTP Part D PDP Working Group in addition to further deliberations among the Group's members. This Report has been submitted to the GNSO Council for its consideration. The PDP WG's recommendations are outlined in Section 4. If the GNSO Council approves the Final Report, ICANN staff will prepare a GNSO Council Report, which will accompany the Final Report to the ICANN Board. Following a public comment period, the ICANN Board will make the determination whether to approve the policy changes recommended by the Working Group in this Final Report.

3.   Background

3.1   Process background

Consistent with ICANN's obligation to promote and encourage robust competition in the domain name space, the Inter-Registrar Transfer Policy (IRTP) aims to provide a straightforward procedure for domain name holders to transfer their names from one ICANN-accredited registrar to another should they wish to do so. The policy also provides standardized requirements for registrars on how to handle transfer requests from domain name holders. The policy is an existing community consensus policy that was implemented in late 2004. As part of that review, the GNSO Council formed a Transfers Working Group (TWG) to examine and recommend possible areas for improvements in the existing transfer policy. The TWG identified a list of over 20 potential areas for clarification and improvement (see Report). Subsequently, the GNSO Council tasked a short term planning group to evaluate and prioritize the policy issues identified by the Transfers Working Group. In March 2008, the group delivered a report to the Council that suggested dividing the consideration of related issues into five PDPs (A – E) (see Recommendations). On 8 May 2008, the GNSO Council adopted the structuring of five additional IRTP PDPs as suggested by the planning group. It was decided that the five new PDPs would be addressed in a largely consecutive manner, with the possibility of overlap, as resources would permit. Final Reports that have been published to date:

- IRTP Part A Final Report – published in March 2009
- IRTP Part B Final Report – published in May 2011
- IRTP Part C Final Report – published in October 2012

The GNSO Council requested an Issue Report from Staff on this fourth and final IRTP PDP Working Group at its meeting on 22 June 2012 which combined all remaining issues identified by the original transfers WG as well as the additional issue identified by the previous IRTP Part C PDP Working Group. Those charter questions are:

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;

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

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);

d)   Whether requirements or best practices should be put into place for registrars to make information on transfer dispute resolution options available to registrant;

e)   Whether existing penalties for policy violations are sufficient or if additional provisions/penalties for specific violations should be added into the policy;

f)   Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need of FOAs.

The Final Issue Report was submitted on 8 January 2013 to the GNSO Council. On 17 January 2013 the GNSO Council resolved at its meeting to initiate a PDP Working Group to provide recommendations in relations to the ex questions outlined in the Charter.

3.2   Final Issue Background

The Final Issue Report provides important background information on the issues of the Charter questions. A relevant extract of the Initial Report can be found in Annex H.

4.   Deliberations and Recommendations

This section provides an overview of the deliberations of the Working Group that convened its first meeting on 25 February 2013. This section is intended to serve as a record of the discussion and analysis of the Working Group, and to provide context for the recommendations made in the following section. For information on WG membership and affiliation, please refer to Annex G.

4.1   Fact-Finding and Working Group Research

An IRTP Training Session Presentation was provided to the Group at its first session in February 2013 in order to provide Working Group members a shared understanding of the Inter-Registrar Transfer Policy. In addition to seeking community input, the WG also decided to gather information from various sources, such as Registries, Registrars, ICANN Compliance, ICANN Legal, and Dispute Resolution Providers, to understand the underlying issues related to the Charter questions.

4.1.1   IRTP-related Data

The Group requested information from ICANN Compliance regarding the nature and number of IRTP-related complaints received. That data indicated that IRTP-issues comprise a very large number of complaints received. ICANN Compliance provided the following numbers for the period between January 2012 and February 2013:

- 6594 IRTP-related complaints were received and processed.
- Of those, 2778 complaints (42%) corresponded to invalid (those that did not involve a potential breach to the IRTP) or Frequently Asked Questions (FAQ)-type complaints.
- The remaining 3816 complaints (58%) were valid IRTP complaints, of which 47 (1.2%) were related to unauthorized transfers of domain names.
- Of the 47 complaints related to unauthorized transfers of domain names, 31 complaints (0.8% of the total valid IRTP complaints) were related to email address hijacking or hijacking of access credentials to the registrant's control panel.

- ICANN Compliance noted that while processing the 16 remaining complaints related to unauthorized transfers (0.4% of the total valid IRTP complaints), none of the involved registrars stated or provided evidence that they had initiated a TDRP procedure.

4.1.2   TDRP-related data

In relation to Charter Question B – whether to enhance the dispute options for registrants – the Working Group solicited information concerning the Transfer Dispute Resolution Policy (TDRP) from Verisign, the National Arbitration Forum (NAF), the Asian Doman Name Dispute Resolution Centre (ADNDRC) and also received anecdotal evidence from a number of Registrars including Tucows, GoDaddy and Key-Systems.

4.1.2.1. Verisign Input

From October 2009 to April 2013 there were:

- 154 TDRP cases filed with Verisign, of which 142 related to .com and 12 to .net.

- Of the 154 cases, 109 were Requests for Enforcement (RFEs) and 45 were Application for Reinstatement of Sponsorships (ARSs).[4]

- Of these 109 cases, Verisign rendered a decision on 59 cases (38 times the filing registrar prevailed; 2 cases were 'NACKed'[5]; an appeal was filed with a dispute provider in 2 cases where the original decision was upheld in both cases) and issued a no-decision on the remaining 50.

- Of the 59 cases where Verisign rendered a decision, the complaints related to:

    - Someone other than the Admin Contact or Registered Name Holder listed in the Losing Registrar's Whois record authorized the transfer (37 cases)

    - The Administrative Contact authorized the transfer without knowledge of the Registered Name Holder (8 cases)

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[4] In certain cases registrars may have been able to resolve the dispute amicably but may need assistance reversing a transfer. In those cases, they may file an "Application for Reinstatement of Sponsorship", or ARS, with Verisign. Upon receipt of agreement by both registrars that a domain name transfer should be reversed, Verisign will perform the 'transfer undo' process to return the domain name at issue to the losing registrar. This allows the domain to be 'reinstated' with the losing registrar without adding an additional year to the registration period.

[5] Transfer refused by the Losing Registrar

- Failure by gaining registrar to obtain express written consent of the transfer from the Administrative Contact or Registered Name Holder (5 cases)

- Payment for the domains was disputed (3 cases)

- The domain transferred without the original registrant's approval (2 cases)

- The Gaining registrar failed to provide a Form of Authorization (FOA) within 5 days of having received the request (2 cases)

- The Losing registrar failed to provide evidence relied on for denial of transfer when requested (1 case)

- Other (1 case)

4.1.2.2 National Arbitration Forum (NAF) Input

The NAF has processed 6 TDRP cases:

- All 6 were appeals of first level decisions and concerned Versign-administered domains

- At the first level (of those 6 cases), the gaining registrar prevailed once, one request was denied and four resulted in no-decision

- At the second level (NAF) the appellant prevailed in 5 cases and the appellee prevailed in 1 case of these cases were fraudulent transfers and 1 case was an attempted transfer

4.1.2.3 Asian Doman Name Dispute Resolution Centre (ADNDRC) Input

The ADNDRC has processed 4 TDRP cases:

- Procedural problems occurred in all four cases

- In all 4 cases the appellee failed to provide sufficient information or any information at all.

- In 2 cases the appellant failed to provide sufficient information

- This resulted in only one case being arbitrated – with the appellant prevailing

- In 2 cases no-decision was rendered, in 1 case the ADNDRC determined that it had no jurisdiction to render a decision.

4.1.2.4 Registrar Input (Key-Systems, Tucows, GoDaddy)

Three registrars provided feedback in relation to the number of TDRP cases filed or which it was party to.

Key-Systems

In the last 5-6 years, it did not initiate or was subject to any TDRP-procedures.

Tucows

Tucows has been involved in approximately four TDRPs (none of which occurred recently). Furthermore, that there has been only a low number of complaints and issues in relation to transfers that are normally dealt with through informal channels by working directly with other registrars (ca. 12 cases per year). Also, as Tucows primarily operates as a wholesaler, the assumption is that certain transfer issues will occur among their resellers - without ever reaching Tucows directly.

Godaddy

GoDaddy typically receives 30-50 transfer disputes per month. Around 25% of those disputes are resolved by working with other registrars. The remaining disputes were not pursued because of one of the following reasons:

- Losing Registrar stopped pursuing the dispute;
- The customers resolved the issue amongst themselves;
- Investigation determined that one of the parties filed a false dispute.

At the time the data was compiled, GoDaddy had had only one case on record (in 2008) that resulted in a formal TDRP procedure.

4.1.3. ICANN Compliance's abilities to enforce the TDRP

During the latter stages of the deliberations, the WG asked ICANN Compliance to provide further details on the circumstances and the measures that are used to enforce IRTP-related complaints. ICANN Compliance provided the Group with the following information:

Scenarios (under IRTP as it stands) in which ICANN Compliance has the authority to act are:

Involving the Losing Registrar

- AuthInfo code related

  - The registrant was not able to retrieve the AuthInfo code from the registrar control panel (or equivalent), following which the registrant requested the registrar to send the AuthInfo code but the registrar failed to do so within the required 5 days (the breach in this case is when both conditions are present);

  - The means provided by the registrar for the registrant to retrieve the AuthInfo code are more restrictive than the means provided for the registrant to update its contact or name server information;

  - The registrar sends the AuthInfo Code to someone who is not the Registered Name Holder or Administrative Contact (Transfer Contact).

  - The registrar does not send the AuthInfo Code at all.

- FOA related

  - The registrar does not send the FOA

  - The Registrar sends the FOA to someone who is not a Transfer Contact

- Related to the unlocking of the domain name registration

  - The registrant is not able to unlock the domain name registration via online means, following which the registrant requested the registrar to unlock the domain name registration which the registrar failed to do within five days ----- (the breach in this case is when both conditions are present)

Involving the Gaining Registrar

- AuthInfo Code related

  - The registrar allowed the transfer without receiving the AuthInfo code - which would be technically impossible but can theoretically happen (such a scenario would also involving registry error)

- FOA related

  - The registrar does not send the FOA

- The registrar sends the FOA to someone who is not the Transfer Contact

- The registrar allows the transfer without receiving confirmation after sending the FOA

4.2 Working Group Deliberations and Recommendations

4.2.1   Charter Question 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.

4.2.1.1 Observations

The Transfer Dispute Resolution Policy (TDRP) currently does not include any requirements for reporting by dispute resolution providers at the conclusion of a TDRP dispute. In January 2006 the 'Review of Issues for Transfers Working Group'[6] noted that `'TDRP enforcement seems inconsistent and does not rely on past precedent. Situations with similar fact patterns are being decided differently by the same dispute provider leading to a distinct lack of clarity and reliability of the proceedings' (Issue 15).

Only gTLD Registries are currently required to provide per-registrar statistics on the number of disputes filed and resolved as part of their monthly transaction reports to ICANN. This requirement does not include information on individual cases.[7] In this context, the WG observed that a media article highlighted the lack of awareness of the TDRP.[8]

During its discussions, the IRTP Part D WG agreed that publication of TDRP dispute outcomes would be desirable, especially considering that similar requirements exist within other dispute policies such as the Uniform Domain Name Dispute Resolution Policy (UDRP). The Group agreed that consistency and transparency across the various dispute resolution policies would be

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[6] http://forum.icann.org/lists/transfers-wg/docHMrHaPLWRt.doc
[7] See http://www.icann.org/en/resources/registries/reports
[8] See http://www.thedomains.com/2013/07/30/you-know-about-udrps-have-you-ever-heard-of-a-tdrp/

beneficial to both dispute providers and parties involved in disputes. The WG feels that such reporting would improve the understanding of the policy and its ramifications on those affected. Maintaining unified records of dispute outcomes could also provide data that may assist in future reviews of dispute resolution policies.

The WG noted that the Asian Domain Name Dispute Resolution Centre (ADNDR) already has a self-imposed publication policy in place for all its TDRP rulings. The ADNDR's example could serve as a best-practice model for other dispute resolution providers.[9]

The Working Group reviewed all comments on this recommendation that were received after the publication of the Initial Report. As all comments were supportive of this recommendation, the Group made no changes to this recommendation.

4.2.1.2 Recommendations

Recommendation #1 - The WG recommends that reporting requirements be incorporated into the TDRP policy. Outcomes of all rulings by Dispute Resolution Providers (DRP) [10] should be published on Providers' website, except in exceptional cases – in keeping with practices currently employed in the UDRP. Exceptions, if sought by the DRP, are to be granted by ICANN Contractual Compliance on a case-by-case basis. The Group recommends publishing reports that follow the example of the Asian Domain Name Dispute Resolution Centre (ADNDRC).[11] These reports should include at a minimum:

a)   The domain name under dispute

b)   Relevant information about parties involved in the dispute;

c)   The full decision of the case;

d)   The date of the implementation of the decision

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[9] For the ADNDR's reports see https://www.adndrc.org/tdrp/tdrphk_decisions.html

[10] The Working Group recommends in Charter question C to remove the Registry as the first dispute resolution layer of the TDRP. Therefore, despite wording of Charter question A, no reporting requirements for the Registries are included here.

[11] See four ADNDRC Reports on TDRP decisions: http://www.adndrc.org/mten/TDRP_Decisions.php?st=6

The need for publication does not apply to TDRP rulings that have taken place prior to the implementation of this recommendation.

Recommendation #2 - The WG recommends that the TDRP be amended to include language along the lines of this revised version of the UDRP:

"The relevant Dispute Resolution Provider shall report any decision made with respect to a transfer dispute initiated under the TDRP. All decisions under this Policy will be published in full over the Internet except when the Panel, convened by the Dispute Resolution, in an exceptional case, determines to redact portions of its decision. In any event, the portion of any decision determining a complaint to have been brought in bad faith shall be published."

4.2.1.3 Level of consensus for these recommendations

Recommendations #1 and #2 received <u>full consensus support</u>.

4.2.1.4 Expected impact of these recommendations

The WG expects to see an improvement in visibility, transparency and consistency of TDRP outcomes and the collection of meaningful data and statistics regarding the use and effectiveness of this policy. The Group also expects the financial impact on dispute resolution providers to be relatively minor, especially considering that these publications will lead to an extremely valuable and useful data set for future referencing.

4.2.2 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.

4.2.2.1 Observations

Problems may arise when trying to resolve transfer disputes in instances where multiple transfers of a domain name have occurred. In that case, a TDRP may be filed because the initial transfer was potentially in violation of the IRTP even though subsequent transfers did not breach the policy. This issue is sometimes called 'domain laundering' or 'domain hopping.' This can complicate a dispute proceeding because the transfer process has to be verified and

assessed for every transfer that occurred since the initial, disputed transfer. This investigation may involve multiple registrars, some or all of which may have complied with the transfer policy. An additional complication is that registrars only have to maintain transfer records for three years.

The WG considered questions of fairness for those registrants that may have acquired a hijacked domain name in compliance with the existing transfer policy. A dispute provider may find that an initial transfer – in a chain of registrar hops – has violated the transfer policy and thus brought into question the validity of all other transfers down the line. The Working Group concluded that the domain name should remain with the current Registrar of Record if subsequent transfers have taken place in compliance with the IRTP and if the statute of limitations to launch a TDRP has passed.

The Working Group agreed that once 'laundering' is detected, the domain must be locked and all registrars in the chain ought to participate in the fact-finding process. To facilitate this participation, a minimum of information needs to be collected and stored during all domain transfers. The WG notes that Verisign's current version of its supplemental rules are in accordance with such a requirement (See Section N, Paragraph 1).

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 IRTP:

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 noted that the statute of limitation to initiate a TDRP is currently set at six months. As many registrants do not check regularly on the status of their registered domain names, this

length might be too short for a registrant to spot a disputable transfer, notify their registrar who, in turn, needs to then initiate a TDRP. '

Since the statute of limitation is important to assure legal certainty for registrars and gaining registrants the WG was mindful that an extension of the statute might have benefits in case of a disputed transfer. Since registrars are contractually obliged to contact registrants annually under the Whois Data Reminder Policy (WDRP),[12] the WG noted that an extension of the statute of limitation from 6 months to 12 months might be desirable. This could mitigate multi-hop transfer problems by providing the losing registrant additional 'reaction time' to inquire with their registrar after they did not receive their annual reminder to update their contact information. At the same time, members of the Working Group felt that such an extension would not be unduly burdening legitimate transfers.

During the public comment period on the Initial Report, the Working Group received comments calling for an even longer extension of the statute of limitations. However, after further discussions the Group felt that the extension to 12 months is sufficient because it gives enough time to registrants and registrars to notice an alleged non-compliant transfer – and initiate a TDRP. Moreover, a 12-months period is also a compromise between extending the protection of registrars and registrants against non-compliant transfers and the need for legal certainty that transfers of domain names are no longer subject to future TDRPs.

It should also be noted that as part of the IRTP Part C PDP Working Group recommendations, a change of registrant, inter alia, requires that the 'registrar places a lock on the domain to prevent Inter-Registrar transfers of the domain for 60 days, unless the Prior Registrant has opted out of this requirement after having received a standard notice as to the associated risks' (see Step 5 of Recommendation #1).[13]

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[12] See http://www.icann.org/en/resources/registrars/consensus-policies/wdrp.
[13] See page 41 of Final Report on IRTP Part C PDP http://gnso.icann.org/en/issues/irtp-c-final-report-09oct12-en.pdf

The Working Group noted that the hopping of domain names might include both inter-registrar and inter-registrant transfers (see also Use Cases in Annex C). Disputes related to the latter are likely to be affected by the implementation of IRTP Part C that addresses inter-registrant transfer policy. The Working Group agreed that the applicability of the TDRP to those transfers should be reviewed following the implementation of IRTP C.

4.2.2.2 Recommendations

Recommendation #3 - The WG recommends that the TDRP be amended to reflect the following wording, or equivalent: "Transfers from a Gaining Registrar to a third registrar, and all other subsequent transfers, are invalidated 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."

Recommendation #4 - The WG recommends that a domain name be returned to the Registrar of Record and Registrant of Record directly prior to the non-compliant transfer if it is found, through a TDRP procedure, that a non-IRTP compliant domain name transfer occurred.

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.

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 while such request for enforcement is pending. Accordingly, 'TDRP action' and 'URS action' are to be added to the second bullet point of the list of denial reasons in the IRTP (Section 3); the IRTP and TDRP should be amended accordingly.[14]

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[14] https://www.icann.org/resources/pages/policy-transfers-2014-07-02-en

The TDRP as well as guidelines to registrars, registries and third party dispute providers should be modified accordingly. The WG notes that the locking should be executed in the way that the UDRP prescribes – once that the UDRP locking process is implemented.

4.2.2.3 Level of consensus for these recommendations

Recommendations #3, #4, #5, and #6 received <u>full consensus support</u>.

4.2.2.4 Expected impact of these recommendations

The Working Group expects that, while a TDRP is pending, this recommendation will reduce the effectiveness in the practice of domain name hopping as a component of fraudulent transfers. The locking mechanism should include a server-prohibited status added by the registry and/or a client prohibited status added by the registrar to stop subsequent transfers. The Working Group also expects improved security for registrants and greater visibility of fraudulent transfers with sufficient time to contact their registrar and take appropriate action to remedy.

4.2.3 Charter Question 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);

4.2.3.1 Observations

Registrant dispute resolution options

Only the Gaining Registrar or Registrar of Record can currently file a dispute under the TDRP, there is no option for the registrant to do so. Yet, ICANN Compliance informed the Working Group that between January 2012 and February 2013 they had received 3816 complaints from individuals alleging unauthorized transfers of domains (see Section 5.1.1 of this Report). If a registrant is in a situation where they feel their situation has been ignored by their registrar their current options are either to file a complaint with ICANN Compliance or proceed through the court system, but they cannot directly launch a TDRP.

The Working Group discussed the issue of allowing registrants to initiate a TDRP, spending a significant amount of time on this issue. The Group went so far as to form a sub-team that

drafted an amended version of the TDRP, which would allow for registrants to be able to initiate the process themselves. As part of its discussion, the Group developed a list of use cases that included scenarios under which registrants might initiate a transfer dispute (see Annex C).

However, the WG decided eventually that the TDRP should not include dispute resolution options for registrants. Specifically, the WG was concerned that adding a new class of parties to an already complex and technical process would overload it. The WG also found it difficult to imagine how a 'loser-pays' TDRP cost-recovery scheme would work in situations where the dispute was between a legitimate registrant and a criminal. Therefore, it is preferable to create separate inter-registrant and inter-registrar transfer dispute-resolution processes and not to open the IRTP to registrant disputes.

During the Working Group discussions it became clear that potential disputes resulting from inter-registrant transfers may need to be addressed. Therefore, once relevant data from ICANN Compliance and/or registrars has been gathered and evaluated, and the IRTP Part C Change of Registrant policy has been implemented, the GNSO Council may determine that not all Use Cases (Annex C) have been addressed and that other dispute resolution options should be explored. In such circumstances, this Working Group recommends that the GNSO Council requests an Issue Report to consider the development of dispute mechanisms to address inter-registrant transfer disputes.

In its public comment, the BC called for registrants' to be allowed to launch transfer dispute procedures. The WG duly revisited the issue and debated such an option and remains convinced that the inter-registrar transfer dispute policy is not the place to address inter-registrant transfer disputes.

Information for registrants
Also, the Working Group noted that the information on the ICANN website describing registrant options with regard to inter-registrar and inter-registrant transfers is not as clearly formulated and prominently displayed as it should be. This became especially clear after the Working Group communicated with ICANN Contractual Compliance to better understand the role and

authority of Compliance in resolving transfer disputes. Situations in which ICANN Contractual
Compliance can address non-compliant transfers are listed in Annex C. In this context, the WG
notes that the TDRP is designed for Registrars, but Registrants are also involved in these
disputes and need clear guidance from the ICANN website, specifically the ICANN Compliance
section, as to who they can contact for assistance in cases of transfer disputes.[15] The public
comments received are consistent with this assessment.

Need for List of Definitions

When discussing the issue of transfer options for registrants, the WG examined in great detail
the wording of the TDRP and IRTP. During this exercise the Working Group agreed that various
terms used in these policies/scenarios are inconsistent and potentially confusing. The Group
decided to draft a list of definitions that would be applicable to the policies in order to improve
user-friendliness. The list of definitions can be found in Annex F.

Registries as first level dispute provider of the TDRP

As part of its TDRP review, the Working Group debated the need for consistent TDRP rulings,
focusing specifically on registries acting as first-level dispute providers under this policy.
Specifically, the Group discussed whether this first level could be discontinued.

In this context, the WG noted that removing the registry layer could increase TDRP costs for
registrars, and potentially registrants, as they would no longer be able to file complaints with
the registries but would have to file with the (more expensive) Dispute Providers if they cannot
agree on a solution among themselves. It was also mentioned that this cost increase could
create a barrier to accessing the TDRP, and potentially lead to a greater reluctance of registrars
to launch the dispute resolution process. The WG noted that the total number of TDRP disputes
that have been initiated is very small. Most registries are currently required to maintain TDRP
dispute-resolution capabilities that is never used (since effectively all of the TDRP disputes are
handled by one registry, Verisign). Thus, a significant increase of costs seems unlikely also

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[15] Explicit recommendations on this issue are included in Charter question D, which deals with making information to
dispute resolution options available to Registrants (5.2.4.3).

because removing the registry level would not prevent registrars from coming to an agreement among themselves prior to initiating a TDRP– similar to the situation today.

Rather, removing the registry layer as the first level dispute provider for the TDRP would lead most likely to a more consistent application of the process because only a small number of Dispute Resolution Providers would process transfer disputes, rather than a growing number of registries. In addition, registries would be able to reduce costs, as they would no longer be required to train staff to support this very infrequently used policy. In this context, the WG pointed out that the number of registries is increasing dramatically with the rollout of the new gTLD program. This combined with the low volume of requests for a process that requires substantial registry resources to properly support will likely result in high costs for registries and low quality for registrars.

Based on this assessment, the WG concluded that the registry as first-level dispute-resolution provider of the TDRP process should be discontinued. The WG had called explicitly for feedback on the preliminary recommendation to phase out the registry level as a first level dispute provider. All comments on this matter were supportive of such a recommendation. The WG revisited its recommendation and affirmed that due to the support of public comments, the steep increase of registries, the need for consistent application of the Policy, and the low number of initiated TDRP cases in the past, the registry level should be discontinued as first level dispute providers.

In summary, the WG finds that the first level of registrant support in the cases of disputed transfers should be done by the Registrars through Registrar outreach. Failing that, the second level of support if Registrars are unable to, is to be done by ICANN Compliance. The third level consists of the formal TDRP and arbitration parties to adjudicate the transfer dispute.

Finally, the WG noted that ICANN should monitor the use of TDRPs and if the discontinuation of the Registry layer as first level dispute provider seems to create a barrier to this dispute resolution mechanism, future policy work should be initiated to counter such development.

4.2.3.2 Recommendations

Recommendation #7 - The WG recommends to add a list of definitions (Annex F) to the TDRP to allow for a clearer and more user-friendly policy.

Recommendation #8 - The WG recommends not to develop dispute options for registrants as part of the current TDRP.

Recommendation #9 - The WG recommends that staff, in close cooperation with the IRTP Part C Implementation Review Team, ensures that the IRTP Part C inter-registrant transfer recommendations are implemented and monitor whether dispute resolution mechanisms are necessary to cover the Use Cases in Annex C. Once such a policy is implemented, its functioning should be closely monitored, and if necessary, an Issues Report be called for to assess the need for an inter-registrant transfer dispute policy.

See also Recommendations #17 and #18 below.

Recommendation #10 - The WG recommends that the TDRP be modified to eliminate the First (Registry) Level of the TDRP.

ICANN should monitor the use of TDRPs and if the discontinuation of the Registry layer as first level dispute provider seems to create a barrier to this dispute resolution mechanism, future policy work should be initiated to counter such development. See also #17 below.

Recommendation #11 - The WG recommends that ICANN take the necessary steps to display information relevant to disputing non-compliant transfers prominently on its web site and assure the information is presented in a simple and clear manner and is easily accessible for registrants.

This recommendation should be view in combination with Recommendation #12 (below).

4.2.3.3 Level of consensus for these recommendations

Recommendations #7, #8, #9, #10 and #11 received <u>full consensus support.</u>

4.2.3.4 Expected impact of these recommendations:

The Working Group expects the usability of the TDRP and IRTP ought to improve through the addition of the list of definitions (Annex F). The Working Group also expects that the development of inter-registrant transfer dispute resolution options – in combination with the implementation of IRTP Part C – will lead to fewer registrant complaints to ICANN compliance and address the scenarios listed in the Use Cases (Annex C). Finally, the TDRP should become more readily understood and consistently applied by removing the registry layer – particularly in the light of the increase of registries through the new gTLD programme. The WG also expects that the use of the TDRP should be monitored to assure that the removal of the registry layer does not create a barrier to access. In combination with #12 below, the WG expects that the ICANN website is updated so that registrants can easily find relevant information concerning transfer dispute. This should also lead to a reduction of invalid tickets submitted to ICANN compliance.

4.2.4 Charter Question D

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

4.2.4.1 Observations

The 2006 'Review of Issues for Transfers Working Group'[16] noted that 'further education is necessary for registrants and registrars to understand where they should take their initial complaints and what the ensuing process will entail'.

The WG observed that a person experiencing a problem with a transfer is greeted with information that is not obvious, clear or well organized. Especially since such a person is likely to be a first-time visitor to the ICANN site and may not be interested in anything except a speedy solution to a specific problem. The ICANN homepage currently features a Quick Link

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[16] http://forum.icann.org/lists/transfers-wg/msg00020.html

section that provides only minimal assistance. Once accessing the 'Have a Problem' page, through one of these Quick Links, one finds information on domain name transfers that includes a collection of policy and technical information about unauthorized transfers of domain names. Still, currently displayed information about the IRTP and the TDRP can be confusing to inexperienced registrants.

ICANN Contractual Compliance's Complaint Submission and FAQs site provides information regarding the IRTP and unauthorized transfers: https://www.icann.org/resources/pages/complaints-2013-03-22-en. Still, the WG agreed that this site is also very technical and combines a wide array of policy-related information that is not all relevant or helpful to a person looking for the correct course of action to take in a specific situation. The Group concluded that the helpful information is not easily found and could be much better organised and displayed to guide registrants to the answers they need.

Similarly, registrar websites do not always prominently display links to registrant rights and information on TDRP is hardly ever found. The WG concluded that registrars should adopt a best practice to make consistent and up-to-date information on transfer resolution options clearly visible to registrants.

The WG concluded that ICANN could improve the portion of its website containing information for registrants and their options regarding remedies to disputed transfers. All registrars and registries could then simply point to that ICANN hosted site, allowing for an easy, up-to date, and consistent source of relevant information for registrants.

The Working Group reviewed all comments on this recommendation that were received after the publication of the Initial Report. The ALAC stated, however, that they would like to see an emphasis on user-friendliness for the recommended help portal. The language of the recommendation was amended accordingly. The BC emphasised in their comment that the display of information on registrant dispute options on registrar websites should also be added to re-seller sites. As a result, the Group agreed to add a best practice recommendation below.

4.2.4.2 Recommendations

Recommendation #12 - The WG recommends that ICANN create and maintain a user-friendly, one-stop website containing all relevant information concerning disputed transfers and potential remedies to registrants. Such a website should be clearly accessible from or integrated into the ICANN Registrants' Benefits and Responsibilities page (https://www.icann.org/resources/pages/benefits-2013-09-16-en) or similar.

This should include:

- Information to encourage registrants to contact the registrar to resolve disputed transfers at the registrar level before engaging ICANN Compliance or third parties by launching a TDRP.

- Improvements to the ICANN website regarding the display of information on the Inter Registrar Transfer Policy and the Transfer Dispute Resolution Policy is regularly updated (see 5.2.3.3 above).

- Links to the relevant information for registrants on the ICANN website being clearly worded and prominently displayed on the ICANN home page. This will contribute to improving visibility and content of the ICANN website that is devoted to offering guidance to registrants with transfer issues.

- ICANN Compliance clearly indicates on its FAQ/help section under which circumstances it can assist registrants with transfer disputes. This should include situations when registrants can ask ICANN Compliance to insist on registrars taking action on behalf of said registrant.

- Improvements in terms of accessibility and user-friendliness should be devoted especially to these pages:
    - https://www.icann.org/resources/pages/dispute-resolution-2012-02-25-en#transfer
    - https://www.icann.org/resources/pages/name-holder-faqs-2012-02-25-en
    - https://www.icann.org/resources/pages/text-2012-02-25-en

Links to these registrant help-websites should also be prominently displayed on internic.net and iana.org in order to assure further that registrants have easy access to information.

Recommendation #13 - The WG recommends that, as a best practice, ICANN accredited Registrars prominently display a link on their website to this ICANN registrant help site. Registrars should also strongly encourage any re-sellers to display prominently any such links, too. Moreover, the Group recommends that this is communicated to all ICANN accredited Registrars.

Registrars may choose to add this link to those sections of their website that already contains Registrant-relevant information such as the Registrant Rights and Responsibilities, the WHOIS information and/or other relevant ICANN-required links as noted under 3.16 of the 2013 RAA.

4.2.4.3 Level of consensus for these recommendations

Recommendations #12 and #13 received full consensus support.

4.2.4.4 Expected impact of these recommendations

The WG expects that improved availability of transfer-dispute-related information ought to lead to registrants to have an improved understanding regarding their dispute options by highlighting the visibility of support and help options and educational materials on the ICANN website and the homepage of ICANN-accredited registrars and re-sellers.

4.2.5 Charter Question E

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

4.2.5.1 Observations

The WG notes that this Charter question dates from 2006. Since then, two Registrar Accreditation Agreements (RAA) have been negotiated (the 2009 RAA and the 2013 RAA) both of which introduce graduated sanctions in the case of non-compliance with ICANN policies.

A full overview of the 2001 RAA penalty structure, that was in place when the Charter question was drafted, as well as the additional penalty regimes from the 2009 and the 2013 RAA can be found in the Annex D. The WG agreed that the new penalty structure is sufficiently nuanced and

no additional policy is needed at this point. Also, the WG expressed that it would be desirable that the overarching RAA and RA penalty structures be drafted in a way that assures uniformity and consistency of policy violation penalties.

The Working Group reviewed all comments on this recommendation that were received after the publication of the Initial Report. As all comments were supportive, the Group made no changes to these recommendations.

4.2.5.2 Recommendations

Recommendation #14 - The WG recommends that no additional penalty provisions be added to the existing IRTP or TDRP.

Recommendation #15 - As a guidance to future policy development processes, this Working Group recommends that policy specific sanctions be avoided wherever possible. Rather, sanctions should be consistent throughout policies and be governed by applicable provisions within the RAA.

4.2.5.3 Level of consensus for these recommendations

Recommendations #14 and #15 received <u>full consensus support</u>.

4.2.5.4 Expected impact of these recommendations

The WG expects that the application of uniform sanctions for policy violations in the IRTP and TDRP and newly developed policies, will result in improved consistency and transparency of the penalty structure and a clearer understanding of policy enforcement mechanisms for contracted parties.

4.2.6 Charter Question F

Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need of FOAs.

4.2.6.1 Observations

FOA

Explicit authorization from either the Registered Name Holder or the Administrative Contact needs to be obtained in order to request an inter-registrar transfer. Such authorization must be made with an Authorization Code (EPP or Auth Code), as well as, via a valid Standardized Form of Authorization (FOA). A detailed diagram of how/when the FOA comes into play can be found in Annex E. The 'Initial Authorization for Registrar Transfer' must be used by the Gaining Registrar to request an authorization for a registrar transfer from the Transfer Contact. The registrar of record must send a copy of this FOA to the Registered Name Holder, however the registrar does not need to receive confirmation to let the transfer go through.

The IRTP specifies that the registrar is responsible for keeping copies of documentation, including the FOA, which may be required for filing and supporting a dispute as well as per the standard document retention policies of the contracts.

In its Initial Report, the Working Group had proposed a recommendation to maintain the FOA. This recommendation led to one public comment that was critical of the FOA and called for its discontinuation. WG members duly revisited this issue and the paragraphs below reflect the key points of the discussion that took place regarding this issue. Some members of the Working Group have observed that the FOA could be complicating legitimate transfers and thereby effectively prohibit registrants from choosing any registrar. Therefore, some WG members believed that the discontinuation of FOAs could reduce the rate of abandonment of legitimate transfer attempts. In addition, the WG noted that FOAs do not uniquely identify Registered Name Holders and that the FOA is effectively a double authorization already performed by the exchange of the AuthInfo code.

In this context, the WG pointed out that some failed transfers could be the result of the use of the ClientTransferProhibited Status. The rules regarding this had recently changed. Members

expect that the implementation of this policy might have some positive impact on reducing the number of failed transfers.

As mentioned above, some WG members pointed to the FOA being useful in a number of circumstances such as its role during the auditing of transfers and its potential usefulness in resolving transfer disputes. In addition, the FOA might be a useful step in the inter-registrar transfer policy because gTLD registries do not have a relationship – contractually or otherwise – with the registrant. The Working Group agrees that the IRTP is a very complex policy and a large number of failed transfers are likely related to this complexity; the FOA is likely one of the factors contributing to this. However, at this stage, the Working Group does not feel it has sufficient data to recommend an elimination of the FOA. In addition, not all (or none) of recommendations of the various IRTP PDP efforts have been implemented or have been in place for a sufficient amount of time to gauge their impact. Therefore, the WG at this stage feels eliminating the FOA would be premature, however, a future review of the entire IRTP, including the need for FOAs, should occur once all IRTP PDP recommendations are implemented have been in place for some time – see Recommendation #17 below for more details. In order to prevent delays for a future review, it is necessary to start gathering related metrics as soon as possible, which are clarified in 4.2.7.1 Observation.

AuthInfo Code

The AuthInfo Code is a unique code generated on a per-domain basis and is   for authorization or confirmation of a transfer request. Some registrars offer facilities for registrants to generate and manage their own AuthInfo code. In other cases, the registrant will need to contact the registrar directly to obtain it. The registrar must provide the registrant with the AuthInfo code within 5 calendar days of the request. In cases of a disputed transfer, FOAs are essential to help resolve the dispute and to reverse it if appropriate. It is for this reason that ICANN Contractual Compliance also expressed its support for maintaining FOAs, reasoning that its continued use may help prevent hijackings in certain cases or serve as evidence in disputes.

4.2.6.2 Recommendation

Recommendation #16 - The WG does not recommend the elimination of FOAs. However, in light of the problems regarding FOAs, such as bulk transfers and mergers of registrars and/or resellers, the Group recommends that the operability of the FOAs should not be limited to email. Improvements could include: transmission of FOAs via SMS or authorization through interactive websites. Any such innovations must, however, have auditing capabilities, as this remains one of the key functions of the FOA.

The Working Group notes that the implementation of this recommendation should not be affected by whether transfers take place in advance (for certain bulk transfers) or in real time.

4.2.6.3 Level of consensus for this recommendation

Recommendation #16 received <u>full consensus support</u>.

4.2.6.4 Expected impact of the recommendation:

The WG expects to see an improved operability of the FOA through a greater variety of transmission options for FOAs, In addition, the Working Group anticipates that FOA audit data, collected as part of the implementation of Recommendations #17 and #18, will support future analyses of FOA effectiveness.

4.2.7 Additional Recommendation on Future Review of the IRTP and the TDRP

4.2.7.1 Observation

The members of this Working Group, many of whom have worked together since IRTP-A launched several years ago, note that the inter-registrar transfer policy (IRTP) is too complex to function efficiently, as evidenced by the high volume of registrar issues, and registrant complaints to ICANN. Fundamental problems are preventing the process for fully realizing its true purpose, including:

- Differing registrar practices (non-standard implementation)
- Domain name hijacking (lack of security)
- Delays in processing and communications (lack of urgency/portability)

- Cumbersome dispute mechanisms (TDRP)

- Reliance on outdated communications for authorization, such as fax and email (inflexibility)

- Consumer confusion

The WG believes that a future review of the IRTP should take place. This should occur once all the recommendations from the various IRTP PDP efforts have been implemented and have been in place for twelve months.

Such a review could include, but not be limited to:

- The number of uncompleted transfers, both before completed as well as abandoned transfers, collected per Registrar by the registry or ICANN;

- The stages in the transfer process at which transfers are abandoned, where an abandoned transfers mean any number of uncompleted transfers that are not followed by at least one completed transfer, collected per Registrar by the registry or ICANN;

- The number of incidents or communications where registrars are contacted by registrants for transfer support;

- The number of incidents or communications there that registrars worked informally with other registrars to request or to effect a transfer reversal;

- The number of incidents or communications related to disputes between registrars.

- The number of incidents or communications related to complaints or disputes involving a change of registrant

- The number of times that they experience a registrant who's claiming that their domain name has been hijacked that is not related to an account compromise

- The % use of the ClientTransferProhibited status by Registrars, collected per Registrar by the registry or ICANN;

- The number of complaints ICANN Contractual Compliance or Registrars receive about the 60-day transfer lock, the ClientTransferProhibited or the FOA.

- The period of time between the occurrence of an alleged non-compliant transfer and the launch of the TDRP process – including those incidents where no dispute was launched or the dispute was rejected due to the expiration of the statute of limitations.

4.2.7.2 Recommendations

Recommendation #17 The WG recommends that, once all IRTP recommendations are implemented (incl. IRTP-D, and remaining elements from IRTP-C), the GNSO Council, together with ICANN staff, should convene a panel to collect, discuss, and analyze relevant data to determine whether these enhancements have improved the IRTP process and dispute mechanisms, and identify possible remaining shortcomings.

If, after a period of 12 months of such a review, the GNSO (with ICANN Staff) determine that the situation regarding transfers is not improved, then this WG recommends that a top-to-bottom reevaluation of the transfer process be undertaken. The goal of this is to create a simpler, faster, more secure policy that is more readily understood and more accessible to use for registrants."

It is a further recommendation that a security expert be included in any such next review Working Group, should for example real 2-factor authentication be required, that it is implemented according to industry standards.

Recommendation #18 - The Working Group recommends that contracted parties and ICANN should start to gather data and other relevant information that will help inform a future IRTP review team in its efforts, especially with regard to those issues listed in the Observations (4.2.7.1) above.

To facilitate the gathering of relevant data, the Implementation Review Team should closely liaise with ICANN Staff to assure prompt access to necessary data.

4.2.7.3 Level of consensus for these recommendations

Recommendations #17 and #18 received <u>full consensus support</u>.

4.2.7.4 Expected impact of these recommendations:

Following a 12-month period after the implementation of all IRTP recommendations, the WG expects the ICANN – through the GNSO – to initiate a review of the IRTP to examine the policy's operability and efficiency based on relevant data. If necessary, a subsequent Issue Report and PDP should be launched to either address any shortcomings or even to redesign the policy as a whole.

5.   Community Input

This section features issues and aspects of the IRTP Part D PDP reflected in the statements from the GNSO Stakeholder Groups / Constituencies; other ICANN Supporting Organizations and Advisory Committees; and comments received during the public comment period.

5.1 Initial Public Comment Period and Request for Input

A public comment forum was opened upon initiation of the Working Group activities. The public comment period ran from 14 November to 14 December 2012. One (1) community submission was received from the gTLD Registry Stakeholder Group.

The WG also requested all GNSO Stakeholder Groups and Constituencies to submit their statements on the IRTP Part D issues by circulating the SG/Constituency template (see Annex B). One (1) contribution was received from GNSO Business Community.

In addition, the WG also reached out to the country code Names Supporting Organization (ccNSO), the At-Large Advisory Committee (ALAC), the Governmental Advisory Committee (GAC) and the Security and Stability Advisory Committee (SSAC) for input, but no comments have been received so far.

The IRTP Part D WG reviewed and discussed the contributions received. Where relevant and appropriate, information and suggestions derived from the contributions received were considered as part of the WG deliberations and have been included in Section 5.

5.2 Public Comment Forum on the Initial Report

Following the publication of the Initial Report on 3 March 2014, a public comment forum was opened, to which four (4) community contributions were submitted (see Report of Public Comment). In addition, the then WG co-chairs provided short videos explaining the Initial Report's draft recommendations. Based on the input received, the WG developed a public comment review tool, which it used to review and respond to all contributions received. According, the report has been updated based on the comments. Where applicable, Section 4.2 (see above) refers to the relevant comments.

Annex A – IRTP Part D PDP WG Charter

The Working Group shall consider the following questions as outlined in the Final Issue Report http://gnso.icann.org/en/issues/issue-report-irtp-d-08jan13-en.pdf and make recommendations to the GNSO Council:

IRTP Dispute Policy Enhancements

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;

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

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);

d) Whether requirements or best practices should be put into place for registrars to make information on transfer dispute resolution options available to registrants;

Penalties for IRTP Violations

e) Whether existing penalties for policy violations are sufficient or if additional provisions/penalties for specific violations should be added into the policy;

Need for FOAs

f) Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need of FOAs.

Annex B – Request for Initial Constituency & Stakeholder Group Input

Below you find the communication the Working Group members sent to gather community input.

As you may be aware, the GNSO Council recently initiated a [Policy Development Process](#) (PDP) on the [Inter-Registrar Transfer Policy (IRTP)](#) Part D; the relevant [Issue Report can be found here](#). The IRTP is a consensus policy adopted in 2004 to provide a straightforward procedure for domain name holders to transfer domain names between registrars. This PDP will address 6 questions; 4 related to the Transfer Dispute Resolution Policy (TDRP); 1 related to penalties for IRTP violations; 1 related to the need for Forms of Authorization (FOAs) – you can find the detailed [Charter here](#). As part of its efforts to obtain input from the broader ICANN Community at an early stage of its deliberations, the Working Group that has been tasked with addressing this issue is looking for any input or information that may help inform its deliberations.

Any provision of input or information you or members of your respective communities may have (either on the charter questions or any other issue that may help inform the deliberations) would be very welcome. Please send these to the GNSO Secretariat (gnso.secretariat@gnso.icann.org) who will forward these to the Working Group.

For further background information on the WG's activities to date, please see the [Working Group's Wiki](#).

If possible, the WG would greatly appreciate if it could receive your input by **Friday 19 April 2013** at the latest. If you cannot submit your input by that date, but your group would like to contribute, please let us know when we can expect to receive your contribution so we can plan accordingly. Your input will be very much appreciated.

Annex C – Overview of Use Cases regarding transfer disputes

No	Scenario	Covered by current policy?	Parties involved	ICANN Compliance Enforcement power
1	The Registrar of Record denies the transfer, or is not providing an AuthInfo code within five calendar days	Existing IRTP/TDRP applies	Registrars and Registrants are both parties	Compliance has a role under existing policy
2	The Registrar is not responsive to a Transfer Emergency Action Contact (TEAC) regarding an urgent issue with a transfer.	Existing IRTP/TDRP applies	Between Registrars	Compliance has a role under existing policy
3	The Registrar of Record does not remove the lock	Existing IRTP/TDRP applies	Between Registrars	Compliance has a role under existing policy
4	The Registrar of Record does not provide a reasonably accessible method for the authorized Transfer Contact to remove the lock within five (5) calendar days	Existing IRTP/TDRP applies	Registrars and Registrants are both parties	Compliance has a role under existing policy
5	The Form of Authorization (FOA) is not sent to the Registered Name Holder by the Registrar of Record 3	Existing IRTP/TDRP applies	Between Registrars	Compliance has a role under existing policy
6	The Administrative Contact authorises a transfer but the Registered Name Holder is challenging the authorisation	Existing IRTP/TDRP applies	Registrars and Registrants are both parties	Compliance has a role under existing policy.
7	The AuthInfo code is not sent to the Registered Name Holder but instead to another contact on file such as, for example, the account holder who may not even be listed in the Whois output. Or it is not send out at all.	Existing IRTP/TDRP applies	Between Registrars	Compliance has a role under existing policy
8	Two registrant claimants dispute to be the Registered Name Holder immediately prior to or directly following an inter-registrar transfer	Current ICANN policy does not apply - but an inter-registrant dispute	Entirely between Registrants	No Compliance role

		resolution process could be envisioned		
9	Two registrant claimants dispute who is the Registered Name Holder of a domain name without an inter-registrant transfer having taken place. There are a number of reasons for such a situation to occur, including – but not limited to – a contractor registering a domain for a client, two business partners splitting, admin contact leave a company but remains listed in the Whois database.	ICANN Policy does not apply	Entirely between Registrants	No Compliance role
10	Administrative contact and Registered Name Holder are spread across two parts of an organization and there is disagreement between them as to the validity of a transfer (see scenario 6)	Existing IRTP/TDRP applies	Entirely between Registrants	Compliance has a role under existing policy
11	A contractor registers a domain under their name on behalf of a customer, and then goes out of business - causing the domain to expire, leaving registrants to resolve the issue with a registrar who has never heard of them.	ICANN policy does not apply (but see Recommendation #9 on this issue)	Registrars and Registrants are both parties	No Compliance role
12	Transfers when privacy/proxy services are used: the use of a privacy service means that the privacy service is the transfer contact, which can lead to problems if the Registrant wants to transfer the domain without wanting to remove privacy. Privacy might have to be removed and/or privacy services NACK the transfer request – which is also problematic.	ICANN Policy does not apply; however, the interaction of the IRTP may be discussed as part of the on-going PPSAI PDP Working Group.	Registrars and Registrants are both parties	No Compliance role

13	The registrant was not able to retrieve the Authinfo code from the control panel, then the registrant requested the registrar to send it but it was not sent within the required 5 days (note: both conditions need to be present)	Existing IRTP/TDRP applies	Registrars and Registrants are both parties	Compliance has a role, under existing policy
14	The means provided by the Registrar of Record for the registrant to retrieve the Authinfo code are more restrictive than the means provided for the registrant to update their contact or name server information	Existing IRTP/TDRP applies	Registrars and Registrants are both parties	Compliance has a role, under existing policy
15	The registrar does not send the FOA or sends it to someone who is not a Transfer Contact	Existing IRTP/TDRP applies	Registrars and Registrants are both parties	Compliance has a role under existing policy

Annex D – Development of the Penalty Structure from the 2001, 2009 and 2013 RAAs

2001 RAA	2009 RAA	2013 RAA
Termination 5.3 Termination of Agreement by ICANN. This Agreement may be terminated before its expiration by ICANN in any of the following circumstances: […] Registrar fails to cure any breach of this Agreement	**Termination** 5.3 Termination of Agreement by ICANN. This Agreement may be terminated before its expiration by ICANN in any of the following circumstances: 5.3.1 There was a material misrepresentation, material inaccuracy, or materially misleading statement in Registrar's application for accreditation or any material accompanying the application. 5.3.2 Registrar: 5.3.2.1 is convicted by a court of competent jurisdiction of a felony or other serious offense related to financial activities, or is judged by a court of competent jurisdiction to have	**Termination** 5.5 Termination of Agreement by ICANN. This Agreement may be terminated before its expiration by ICANN in any of the following circumstances: 5.5.1 There was a material misrepresentation, material inaccuracy, or materially misleading statement in Registrar's application for Accreditation or renewal of Accreditation or any material accompanying the application. 5.5.2 Registrar: 5.5.2.1 is convicted by a court of competent jurisdiction of a felony or other serious offense related to financial activities, or is judged by a court of competent jurisdiction to have: 5.5.2.1.1 committed fraud, 5.5.2.1.2 committed a breach of fiduciary duty, or 5.5.2.1.3 **with actual knowledge (or through gross negligence) permitted Illegal Activity in the registration or use of**

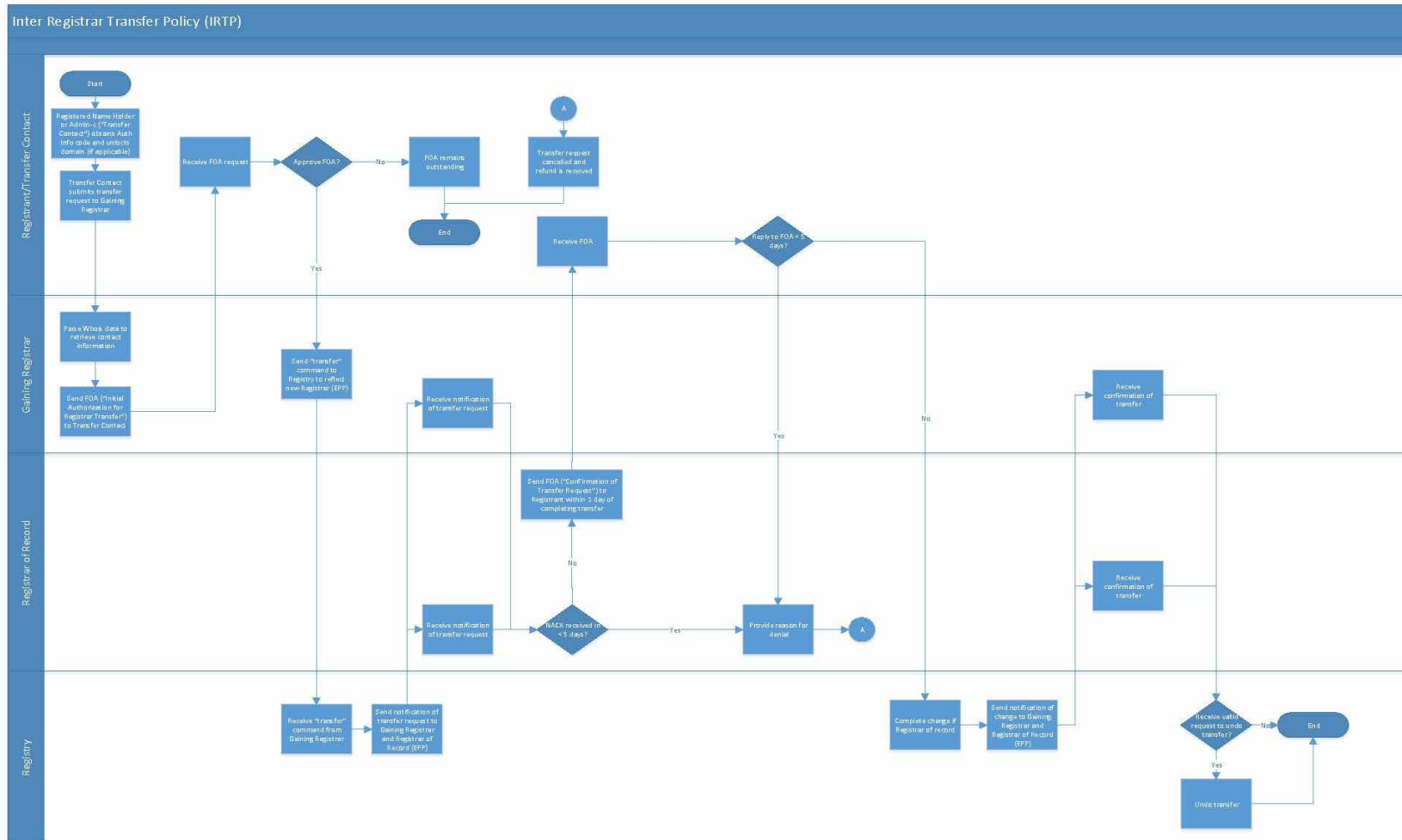| (other than a failure to comply with a policy adopted by ICANN during the term of this Agreement as to which Registrar is seeking, or still has time to seek, review under Subsection 4.3.2 of whether a consensus is present) within fifteen working days after ICANN gives Registrar notice of the	committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of those offenses; or 5.3.2.2 is disciplined by the government of its domicile for conduct involving dishonesty or misuse of funds of others. 5.3.3 Any officer or director of Registrar is convicted of a felony or of a misdemeanor related to financial activities, or is judged by a court to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN deems as the substantive equivalent of any of these; provided, such officer or director is not removed in such circumstances. Upon the execution of this agreement, Registrar shall provide ICANN with a list of the names of Registrar's directors and	**domain names or in the provision to Registrar by any Registered Name Holder of inaccurate Whois information**; or 5.5.2.1.4 failed to comply with the terms of an order issued by a court of competent jurisdiction relating to the use of domain names sponsored by the Registrar; or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing; or 5.5.2.2 is disciplined by the government of its domicile for conduct involving dishonesty or misuse of funds of others; or 5.5.2.3 **is the subject of a non-interlocutory order issued by a court or arbitral tribunal, in each case of competent jurisdiction, finding that Registrar has, directly or through an Affiliate, committed a specific violation(s) of applicable national law or governmental regulation relating to cybersquatting or its equivalent; or 5.5.2.4 is found by ICANN, based on its review of the findings of arbitral tribunals, to have been engaged, either directly or through its Affiliate, in a pattern and practice of trafficking in or use of domain names identical or confusingly similar to a trademark or service mark of a third party in which the Registered Name Holder has no rights or legitimate interest, which trademarks have been registered and are being used in bad faith.** 5.5.3 Registrar knowingly employs any officer that is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed

breach. 5.3.6 Registrar continues acting in a manner that ICANN has reasonably determined endangers the stability or operational integrity of the Internet after receiving three days notice of that determination.	officers. Registrar also shall notify ICANN within thirty (30) days of any changes to its list of directors and officers. 5.3.4 Registrar fails to cure any breach of this Agreement (other than a failure to comply with a policy adopted by ICANN during the term of this Agreement as to which Registrar is seeking, or still has time to seek, review under Subsection 4.3.2 of whether a consensus is present) within fifteen (15) working days after ICANN gives Registrar notice of the breach. 5.3.5 Registrar fails to comply with a ruling granting specific performance under Subsections 5.1 and 5.6. 5.3.6 Registrar continues acting in a manner that ICANN has reasonably determined endangers the stability or operational integrity of the Internet after receiving three (3) days notice of that	fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such officer is not terminated within thirty (30) days of Registrar's knowledge of the foregoing; or any member of Registrar's board of directors or similar governing body is convicted of a misdemeanor related to financial activities or of any felony, or is judged by a court of competent jurisdiction to have committed fraud or breach of fiduciary duty, or is the subject of a judicial determination that ICANN reasonably deems as the substantive equivalent of any of the foregoing and such member is not removed from Registrar's board of directors or similar governing body within thirty (30) days of Registrar's knowledge of the foregoing. 5.5.4 Registrar fails to cure any breach of this Agreement within twenty-one (21) days after ICANN gives Registrar notice of the breach. 5.5.5 Registrar fails to comply with a ruling granting specific performance under Sections 5.7 or 7.1. 5.5.6 **Registrar has been in fundamental and material breach of its obligations under this Agreement at least three (3) times within a twelve (12) month period.** 5.5.7 Registrar continues acting in a manner that ICANN has reasonably determined endangers the stability or operational integrity of the Internet after receiving three (3) days notice of that determination. 5.5.**8 (i) Registrar makes an assignment for the benefit of creditors or**

determination.

5.3.7 Registrar becomes bankrupt or insolvent.

This Agreement may be terminated in circumstances described in Subsections 5.3.1 - 5.3.6 above only upon fifteen (15) days written notice to Registrar (in the case of Subsection 5.3.4 occurring after Registrar's failure to cure), with Registrar being given an opportunity during that time to initiate arbitration under Subsection 5.6 to determine the appropriateness of termination under this Agreement. If Registrar acts in a manner that ICANN reasonably determines endangers the stability or operational integrity of the Internet and upon notice does not immediately cure, ICANN may suspend this Agreement for five (5) working days pending ICANN's application for more extended specific performance or injunctive relief

similar act; (ii) attachment, garnishment or similar proceedings are commenced against Registrar, which proceedings are a material threat to Registrar's ability to provide Registrar Services for gTLDs, and are not dismissed within sixty (60) days of their commencement; (iii) a trustee, receiver, liquidator or equivalent is appointed in place of Registrar or maintains control over any of Registrar's property; (iv) execution is levied upon any property of Registrar, (v) proceedings are instituted by or against Registrar under any bankruptcy, insolvency, reorganization or other laws relating to the relief of debtors and such proceedings are not dismissed within thirty (30) days of their commencement, or (vi) Registrar files for protection under the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., or a foreign equivalent or liquidates, dissolves or otherwise discontinues its operations.

Suspension

5.7.1 Upon the occurrence of any of the circumstances set forth in Section 5.5, ICANN may, in ICANN's sole discretion, upon delivery of a notice pursuant to Subsection 5.7.2, elect to suspend Registrar's ability to create or sponsor new Registered Names or initiate inbound transfers of Registered Names for any or all gTLDs for a period of up to a twelve (12) months following the effectiveness of such suspension. Suspension of a Registrar does not preclude ICANN's ability to issue a notice of termination in accordance with the notice requirements of Section 5.6.

5.7.2 Any suspension under Subsections 5.7.1 will be effective upon fifteen (15) days written notice to Registrar, with Registrar being

under Subsection 5.6. This
Agreement may be terminated
immediately upon notice to
Registrar in circumstance
described in Subsection 5.3.7
above.

Suspension

2.1.

[…] Notwithstanding the above and
except in the case of a good
faith disagreement concerning
the interpretation of this
Agreement, ICANN may,
following notice to Registrar,
suspend Registrar's ability to
create new Registered Names or
initiate inbound transfers of
Registered Names for one or
more TLDs for up to a twelve
(12) month period if (i) ICANN
has given notice to Registrar of a
breach that is fundamental and
material to this Agreement
pursuant to Subsection 5.3.4
and Registrar has not cured the
breach within the period for

**given an opportunity during that time to initiate arbitration under
Subsection 5.8 to determine the appropriateness of suspension
under this Agreement.**

5.7.3 **Upon suspension, Registrar shall notify users, by posting a
prominent notice on its web site, that it is unable to create or
sponsor new gTLD domain name registrations or initiate inbound
transfers of Registered Names. Registrar's notice shall include a
link to the notice of suspension from ICANN.**

5.7.4 **If Registrar acts in a manner that ICANN reasonably determines
endangers the stability or operational integrity of the Internet and
upon notice does not immediately cure, ICANN may suspend this
Agreement for five (5) working days pending ICANN's application
for more extended specific performance or injunctive relief under
Subsection 7.1. Suspension of the Agreement under this
Subsection may, at ICANN's sole discretion, preclude the Registrar
from (i) providing Registration Services for gTLDs delegated by
ICANN on or after the date of delivery of such notice to Registrar
and (ii) creating or sponsoring new Registered Names or initiating
inbound transfers of Registered Names for any gTLDs. Registrar
must also post the statement specified in Subsection 5.7.3.**

5.7.1 Upon the occurrence of any of the circumstances set forth in Section
5.5, ICANN may, in ICANN's sole discretion, upon delivery of a
notice pursuant to Subsection 5.7.2, elect to suspend Registrar's
ability to create or sponsor new Registered Names or initiate
inbound transfers of Registered Names for any or all gTLDs for a
period of up to a twelve (12) months following the effectiveness of

	cure prescribed by Subsection 5.3.4, or (ii) Registrar shall have been repeatedly and willfully in fundamental and material breach of its obligations at least three (3) times within any twelve (12) month period.	such suspension. Suspension of a Registrar does not preclude ICANN's ability to issue a notice of termination in accordance with the notice requirements of Section 5.6. 5.7.2 Any suspension under Subsections 5.7.1 will be effective upon fifteen (15) days written notice to Registrar, with Registrar being given an opportunity during that time to initiate arbitration under Subsection 5.8 to determine the appropriateness of suspension under this Agreement 5.7.3 **Upon suspension, Registrar shall notify users, by posting a prominent notice on its web site, that it is unable to create or sponsor new gTLD domain name registrations or initiate inbound transfers of Registered Names. Registrar's notice shall include a link to the notice of suspension from ICANN**. 5.7.4 If Registrar acts in a manner that ICANN reasonably determines endangers the stability or operational integrity of the Internet and upon notice does not immediately cure, ICANN may suspend this Agreement for five (5) working days pending ICANN's application for more extended specific performance or injunctive relief under Subsection 7.1. Suspension of the Agreement under this Subsection may, at ICANN's sole discretion, preclude the Registrar from (i) providing Registration Services for gTLDs delegated by ICANN on or after the date of delivery of such notice to Registrar and (ii) creating or sponsoring new Registered Names or initiating inbound transfers of Registered Names for any gTLDs. Registrar must also post the statement specified in Subsection 5.7.3.

Annex E– Flow Chart of the IRTP and the use of FOAs

Annex F - Definitions for the Inter-Registrar Transfer Policy

Complainant: A party bringing a Complaint under this Policy. A Complainant may be either a Losing Registrar (in the case of an alleged fraudulent transfer) or a Gaining Registrar (in the case of an improper NACK) under this Policy.

Complaint: The initial document in a TDRP proceeding that provides the allegations and claims brought by the Complainant against the Respondent.

Dispute Resolution Panel The Dispute Resolution Panel shall mean an administrative panel appointed by a Dispute Resolution Provider ('Provider') to decide a Request for Enforcement concerning a dispute under this Dispute Resolution Policy.

Dispute Resolution Provider The Dispute Resolution Provider must be an independent and neutral third party that is neither associated nor affiliated with the Respondent, Complainant, or the Registry Operator under which the disputed domain name is registered. ICANN shall have the authority to accredit one or more independent and neutral Dispute Resolution Providers according to criteria developed in accordance with this Dispute Resolution Policy.

FOA Form of Authorization The standardized form of consent that the Gaining Registrar and Registrar of Record are required to use to obtain authorization from the Registrant or administrative contact in order to properly process the transfer of domain name sponsorship from one Registrar to another.

Gaining Registrar: The registrar who seeks to become the Registrar of Record by submitting a transfer request.

Inter Registrar Transfer Policy (IRTP): The ICANN Consensus Policy governing the transfer of sponsorship of registrations between registrars as referenced in the Registry-Registrar Agreement executed between a Registrar and the Registry, as well as the Registrar Accreditation Agreement which is executed between ICANN and all ICANN- accredited registrars.

Invalid Transfer: Transfer that is found non-compliant with the IRTP

Losing Registrar: The registrar who was the Registrar of record at the time a request for transfer of domain is submitted.

NACK: Denial of request of transfer by the Losing Registrar.

Registrant The individual, organization, or entity that holds the right to use a specific domain name for a specific period of time.

Registrar of Record: The registrar who sponsors a domain name at the registry.
Registry (Registry Operator) The organization authorized by ICANN to provide registration services for a given TLD to ICANN-accredited Registrars

Respondent: A party against which a Complaint is brought. Under this Policy the Respondent can be a losing registrar in the case of an improper (NACK), a gaining registrar in the case of an alleged fraudulent transfer, or the registrar of record.

Supplemental Rules The Supplemental Rules shall mean those rules adopted by the Registry Operator, in the case of First Level disputes (as set forth below), or the Provider administering a proceeding (in the case of all other disputes) to supplement this Policy. Supplemental Rules shall be consistent with this Dispute Resolution Policy and shall cover topics such as fees, word and page limits and guidelines, the means for communicating with the Provider, and the form of cover sheets.

Annex G: Working Group Membership and Archives

The IRTP Part D Working Group convened its first meeting on 25 February 2013. As one of its first tasks, the Working Group prepared a work plan, which has been reviewed on a regular basis, and revised where necessary. Constituency and Stakeholder Group statements with regard to the Charter questions (see Annex B) were solicited. This request was also forwarded to other ICANN Supporting Organizations (SOs) and Advisory Committees (ACs) to solicit their input also.

Members of the IRTP Part D Working Group

The members of the Working group are:

Name	Affiliation*	Meetings Attended (Total # of Meetings: 50)
Simonetta Batteiger	RrSG	
James Bladel (Chair)	RrSG	
Graeme Bunton	RrSG	
Chris Chaplow	CBUC	
Paul Diaz	RySG	
Avri Doria	NCSG & At-Large	
Kristine Dorrain	NAF	
Roy Dykes	RySG	
Kevin Erdman	IPC	
Rob Golding	RrSG	
Angie Graves	CBUC	
Alan Greenberg	ALAC	
Volker Greimann	RrSG	
Oliver Hope	RrSG	
Barbara Knight	RySG	
Bartlett Morgan	NCUC	
Bob Mountain	RrSG	
Richart Peterson	RrSG	
Holly Raiche	ALAC	
Arthur Zonnenberg	RrSG	

Mikey O'Connor stepped down as co-Chair and Working Group member in April 2014. Working Group members and ICANN Staff would like to thank Mikey wholeheartedly for his invaluable contribution to this work effort as well as all preceding IRTP PDPs.

The Statements of Interest (SOI) for the Working Group members can be found at https://community.icann.org/pages/viewpage.action?pageId=40927772.

The attendance records can be found at https://community.icann.org/display/ITPIPDWG/IRTP+Part+D+-+Attendance+Log .

The email archives can be found at http://forum.icann.org/lists/gnso-irtpd/.

*
ALAC – At-Large Community
RrSG – Registrar Stakeholder Group
RySG – Registry Stakeholder Group
CBUC – Commercial and Business Users Constituency
NAF – National Arbitration Forum
NCUC – Non Commercial Users Constituency
IPC – Intellectual Property Constituency
ISPCP – Internet Service and Connection Providers Constituency
NCSG – Non-Commercial Stakeholder Group

Annex H: Final Issue Background

(excerpt from the IRTP Part D [Final Issue Report](#))[17]

Reporting requirements for registries and dispute providers

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.

The TDRP currently does not contain any reporting requirements on the outcome of TDRP dispute and as part of the 'Review of Issues for Transfers Working Group'[18] it was noted that:

- *TDRP enforcement seems inconsistent and does not rely on past precedent as intended. Situations with similar fact patterns are being decided differently by the same dispute provider leading to a distinct lack of clarity and reliability of the proceedings. This is primarily observed at the registry level.*

- *Dispute providers should be filing standardized reports with ICANN to better help the community understand trend level data regarding resolutions.*

- *There is a lack of citations and precedent information for dispute providers. It would be useful if the filing party includes this information as a standard part of their submission.*

gTLD Registries are required to provide information per registrar on the number of disputes filed and resolved as part of their monthly transaction reports to ICANN[19] but this does not include information on individual cases.

The other ICANN dispute resolution policy (which is applicable to trademark disputes, not transfer disputes), the Uniform Domain Name Dispute Resolution Policy (UDRP), does specify that decisions

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[17] Please note that the following text has been excerpted from the IRTP Part D Final Issue Report and does not contain any new input from the Working Group.
[18] http://forum.icann.org/lists/transfers-wg/msg00020.html
[19] See http://www.icann.org/en/resources/registries/reports; and for the new gTLDs see: http://newgtlds.icann.org/en/applicants/agb/agreement-approved-20nov13-en.pdf

need to be published (see http://www.icann.org/en/help/dndr/udrp/policy - 'All decisions under this Policy will be published in full over the Internet, except when an Administrative Panel determines in an exceptional case to redact portions of its decision'.

Should the PDP WG recommend introducing reporting requirements for registries and/or dispute providers, it may also want to consider how to handle the display and approval of non-public information regarding transfers, should such information be required to be included.

Additional provisions for dealing with multiple transfers

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

As noted in the Review of Issues for Transfers Working Group, 'there are problems cleanly resolving disputes in instances where multiple transfers have occurred. Dispute providers require further guidance and clarification on this issue. New provisions may be needed to deal with implications'. When drafting the Issue Report, Staff assumed that this issue refers situations, in which 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, although the first transfer might be found to violate the transfer policy, the subsequent transfer(s) likely were in technical 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, despite technical compliance with the policy, for dispute service providers.

Dispute options for registrants

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).

The 'Review of Issues for Transfers Working Group'[20] pointed out that 'ICANN receives some complaints from registrants about registrars who choose not to initiate a dispute on their behalf. Should there be additional steps available for registrants to take if they believe a transfer or rejection has occurred improperly?'

Under the TDRP, only the Gaining Registrar or Registrar of Record can file a dispute. There is currently no provision for the registrant to do so.

As part of its consideration of whether dispute options for registrants should be developed and implemented as part of the policy, the PDP WG should consider gathering further information on the extent of the issue and how the current policy as well as parties involved would be impacted should dispute options for registrants be developed and implemented.

An additional consideration that the PDP WG may want to take into consideration is that as part of the IRTP Part C PDP, a recommendation is being considered to create an additional policy to conduct a change of registrant[21]. No consideration was given in the context of those discussions on how to handle disputes that would occur as a result of this new policy. One option could be to modify the TDRP to allow for disputes as a result of a change of registrant to be handled as part of the TDRP either upon the filing of a complaint by the registrar and/or registrant.

Best practices to make information on transfer dispute resolution available
d) Whether requirements or best practices should be put into place for registrars to make information on transfer dispute resolution options available to registrants.

The 'Review of Issues for Transfers Working Group'[22] noted that 'further education is necessary for registrants and registrars to understand where they should take their initial complaints and what the ensuing process will entail'. As a next step it suggested that 'part of [an] advisory to registrars,

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[20] http://forum.icann.org/lists/transfers-wg/msg00020.html
[21] The proposal is that the IRTP would become a Transfer Policy in which one Part or Section details the policy for a change of registrar, and another Part or Section details the policy for a change of registrant.
[22] http://forum.icann.org/lists/transfers-wg/msg00020.html

possible other suggestions to ICANN on education to registrants and potential development of statement of best practices for registrars and registrants related to the DRP' could be considered.

A quick link to 'Domain Transfers', 'Compliance Complaint' and 'Unsolicited Renewal or Transfer' currently featured on the ICANN Home Page[23]:

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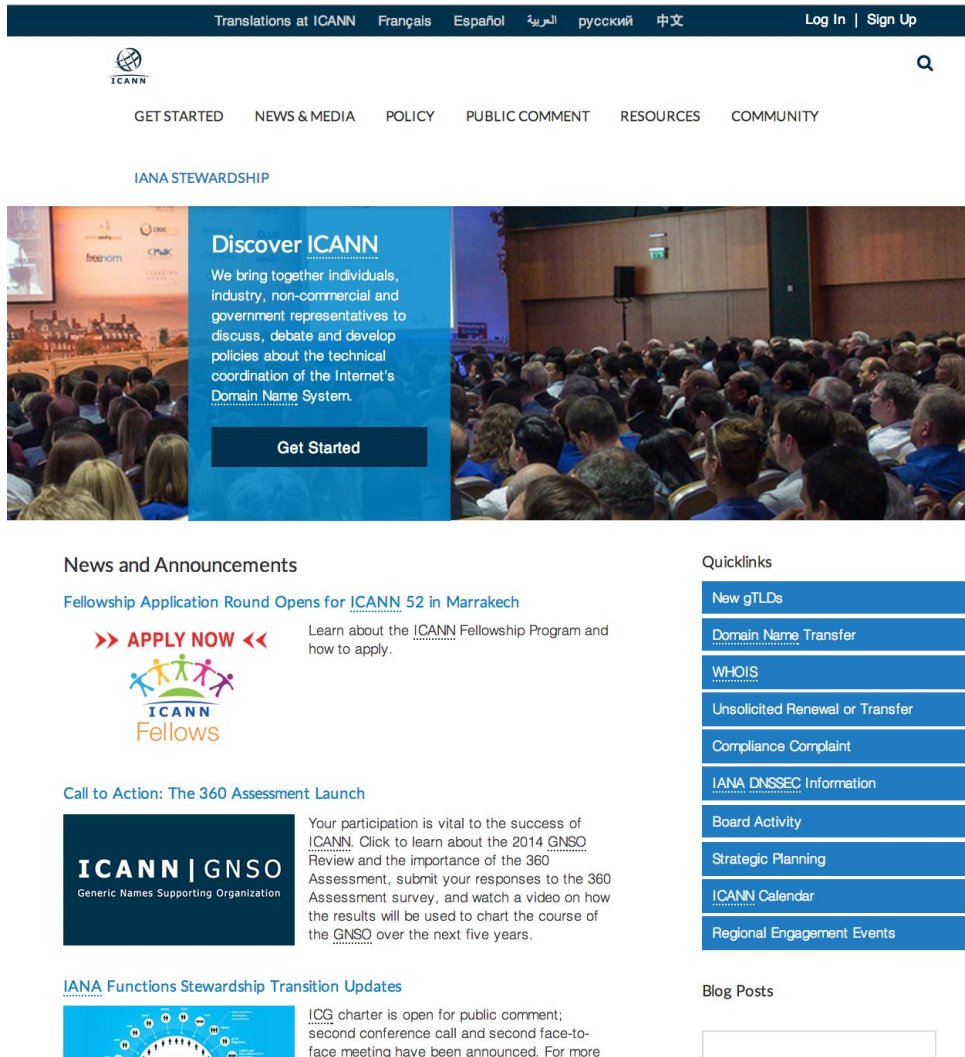
[23] For the purpose of this Final Repot, this section has been amended to reflect the situation of the current ICANN homepage.

Similar information is also available on the homepage of the InterNIC web-site (http://www.internic.net/), which now links directly to this ICANN transfer help site: https://www.icann.org/resources/pages/transfer-2013-05-03-en. [24] In addition, there is a dedicated web-page on the ICANN web-site which provides an overview of all dispute resolution options available (see http://www.icann.org/en/help/dispute-resolution).

A quick scan of some registrar web-sites does not find similar information easily accessibly, which may be explained by the fact that the TDRP cannot be initiated by registrants and hence it is deemed non-essential information.

Other ICANN policies, such as the Expired Domain Deletion Policy (EDDP), have resulted in contractual requirements on how information needs to be provided to registrants (e.g. 'If Registrar operates a website for domain name registration or renewal, details of Registrar's deletion and auto-renewal policies must be clearly displayed on the website'). The PDP WG may want to review how effective such provisions are in educating and raising awareness amongst registrants.
The WG should consider reviewing this issue together with the previous question on whether dispute options for registrants should be developed as enhanced measures to make information on dispute resolution options available may also raise expectations with registrants and may enforce the need for a mechanism for registrants to be able to initiate a proceeding directly should the registrar refuse to do so on their behalf.

Penalties for IRTP Violations

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

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[24] This is the result of a project by ICANN Compliance that has brought these support feature from InterNIC to ICANN Compliance.

The 'Review of Issues for Transfers Working Group'[25] found that 'existing penalties are not sufficient deterrent (loser pays) to discourage bad actors' and 'existing penalties are difficult to enforce'. It was also noted that at the time of the Transfers Working Group (19 January 2006), the only option that ICANN had available to penalize registrars for not complying with the policy would be the 'nuclear option' (termination of accreditation).

Since the work done by the Transfers Working Group, a new Registrar Accreditation Agreement (RAA) was negotiated (see 2009 RAA - http://www.icann.org/en/resources/registrars/raa/ra-agreement-21may09-en.htm), which foresees graduated sanctions in the case of non-compliance with ICANN policies. As noted above, under the 2001 RAA, the only sanction available for a breach/noncompliance is termination of accreditation. Under the 2009 RAA additional sanctions are authorized such as:

- The suspension of the ability to create new registrations and inbound transfers under some or all gTLDS for up to 12 Months;
- Recover ICANN's enforcement cost from registrar;
- Enforce registrar's group liability;
- Conduct audits (site visits) on 15 days' notice.
- 95% of registrars currently operate under the 2009 RAA (see https://charts.icann.org/public/index-registrar-distribution.html).

The PDP WG should review this issue in the context of the sanctions available under the 2009 RAA and determine whether additional provisions/penalties for specific violations are still required.

Are FOAs still necessary?

h) Whether the universal adoption and implementation of EPP AuthInfo codes has eliminated the need of Forms of Authorization (FOA)s.

This issue was raised by the IRTP Part C PDP Working Group in the context of their deliberations on the charter question relating to time-limiting FOAs. The WG observed that the use of EPP Authorization Info (AuthInfo) codes has become the de facto mechanism for securing domain transfers and thereby replaced some of the reasons for the creation of the standard FOA. As a

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[25] http://forum.icann.org/lists/transfers-wg/msg00020.html

result, the WG recommended that the GNSO Council consider adding this issue to the IRTP Part D PDP.

In order to request an inter-registrar transfer, express authorization from either the Registered Name Holder or the Administrative Contact needs to be obtained. Such authorization must be made via a valid Standardized Form of Authorization (FOA). There are two different FOA's. The FOA labeled 'Initial Authorization for Registrar Transfer' must be used by the Gaining Registrar to request an authorization for a registrar transfer from the Transfer Contact. The FOA labeled 'Confirmation of Registrar Transfer Request' may be used by the Registrar of Record to request confirmation of the transfer from the Transfer Contact. The IRTP specifies that the FOA 'should be sent by the Registrar of Record to the Transfer Contact as soon as operationally possible, but must be sent not later than twenty-four (24) hours after receiving the transfer request from the Registry Operator. Failure by the Registrar of Record to respond within five (5) calendar days to a notification from the Registry regarding a transfer request will result in a default "approval" of the transfer'. The IRTP also specifies that the registrar is responsible for keeping copies of documentation, including the FOA, which may be required for filing and supporting a dispute as well as per the standard document retention policies of the contracts.

The AuthInfo Code is a unique code generated on a per-domain basis and is used for authorization or confirmation of a transfer request. Some registrars offer facilities for registrants to generate and manage their own AuthInfo code. In other cases, the registrant will need to contact the registrar directly to obtain it. The registrar must provide the registrant with the AuthInfo code within 5 calendar days of the request.

The way the IRTP typically works, as described in the presentation provided by James Bladel to the IRTP Part C Working Group:

a) A Registrant sends a transfer request to the new registrar ("Gaining Registrar");

b) The Gaining Registrar provides instructions to the registrant, incl. get the AuthInfo Code from the current registrar ("Registrar of Record");

c) After confirming the Registrant and/or Administrate Contact email address, the Gaining Registrar sends the FoA to the Transfer contact;

d) The Transfer contact confirms the FOA and sends the AuthInfo code that was obtained from the Losing Registrar to the Gaining Registrar;

e) The Gaining Registrar requests the transfer and sends the AuthInfo code to the Registry;

f) If the domain name registration has no status that impedes the transfer (e.g., client Transfer Prohibited) and the AuthInfo code valid, the Registry sends notice that the transfer is pending to the Gaining and Losing Registrar;

g) The Losing Registrar must send an FOA to the Registrant. However, the transfer is not depending on this step.

h) After 5 days with no objections ("NACK"), the transfer is complete.

Most, if not all gTLD Registries, currently operate an EPP service, which was not the case at the time of implementation of the IRTP in 2004. At that time it was foreseen that for gTLD Registries that were not EPP based, a transfer command would be given by the registrar to the registry, which 'constitutes a representation on the part of the Gaining Registrar that the requisite authorization has been obtained from the Transfer Contact listed in the authoritative Whois database'. This 'requisite authorization' would be the FOA. In the current environment[26], there may no longer be a technical need for an FOA in communicating with the Registry as the AuthInfo code has replaced that function, but at the same time the FOA serves other functions such as informing the Registrant that a transfer has been requested as well as possible evidence in dispute proceedings.
The PDP WG will need to consider carefully which functions the FOA still fulfils in the current IRTP environment, whether these functions are still necessary, and if deemed necessary, how these would be fulfilled if the FOA is deemed no longer needed or the appropriate vehicle to fulfil these functions.

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[26] New gTLD Registries are required to offer an EPP service and similar requirements have been introduced in the case of recent gTLD renewals.

SSAC
ICANN Security and Stability Advisory Committee

To: ICANN Board
From: The SSAC Chair
Via: The SSAC Liaison to the ICANN Board

The purpose of this letter is to bring you up-to-date on proposed changes to the membership of the Security and Stability Advisory Committee (SSAC) and to provide an explanation for the attached requests for Board actions. These changes are the result of the annual membership evaluation process instituted by the SSAC and completed by the SSAC Membership Committee in November 2014.

The SSAC Membership Committee considers new member candidates and makes its recommendations to the SSAC. It also evaluates SSAC members whose terms are ending with the calendar year. The Membership Committee is comprised of the SSAC Chair, the SSAC Vice Chair, the SSAC Board Liaison, and other SSAC member volunteers. At the conclusion of the 2014 evaluation process, the SSAC agreed with the Membership Committee's recommendation to reappoint the following SSAC members to three-year terms ending 31 December 2017: Greg Aaron, Don Blumenthal, KC Claffy, Lyman Chapin, Steve Crocker, Mark Kosters, Russ Mundy, Rod Rasmussen, and Mark Seiden. The SSAC respectfully requests that the ICANN Board should reappoint the above-mentioned members to three-year terms. The biographical information and disclosures of interest for members for which the SSAC is requesting reappointment are attached for your reference.

Also during 2014 the following SSAC members tendered their resignations, effective 31 December 2014: Rodney Joffee, Jason Livingood, Bruce Tonkin, Stefano Trumpy, and Paul Vixie. The SSAC asks the Board to join it in acknowledging with gratitude the deep and lasting contributions made by these departing members.

In addition, the Membership Committee recently considered the application from Geoff Huston to join the SSAC. The SSAC accepted the Membership Committee's recommendation to appoint Mr. Huston to the Committee. Mr. Huston is Chief Scientist at APNIC. He is generally involved in projects relating to measurement and network metrics. Recently he has been focused on studying the exhaustion of the remaining pool of unallocated IPv4 addresses, the related topic of the uptake of IPv6, the measurement of the DNS and the uptake of DNSSEC, and the design and operational stability of the Resource Public Key Infrastructure (RPKI). The SSAC believes he would be a significant contributing member of the SSAC. Thus, the SSAC respectfully requests that the Board should appoint Geoff Huston to the SSAC for a three-year term beginning 01 January 2015 and ending 31 December 2017. The curriculum vitae for Mr. Huston is attached for your reference.

The SSAC welcomes comments from the Board concerning these requests.

Patrik Fältström, SSAC Chair

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Greg Aaron

Greg Aaron is President of Illumintel, which provides advising and security services to Internet companies and domain registry operators. He is an authority on the malicious use of domain names, and is an expert on registry operations, domain name policy, and related intellectual property issues.

Greg has advised governments, registry operators, and ICANN regarding gTLD and ccTLD policies and operations. While Director of Key Account Management and Domain Security at Afilias, he oversaw the launches of the .MOBI, .IN, and .ME TLDs, managed the successful .INFO TLD, and created anti-abuse policies that are now standard in many gTLDs. He was the senior industry expert on the Ernst & Young team that evaluated the new TLD applications to ICANN in 2012-2013.

Greg is Research Fellow at the Anti-Phishing Working Group (APWG), serves as co-chair of the APWG's Internet Policy Committee, and is co-author of the APWG's ongoing Global Phishing Survey series, which is the major source of phishing metrics and analysis. He was Chair of the GNSO's Registration Abuse Policy Working Group (RAPWG). He has investigated all types of malicious activity, including major spamming operations, phishing gangs, Internet sales of counterfeit products, malware distribution, child sexual abuse image cases, and fast-flux networks. He has participated in the takedown and sinkholing of several botnets including Conficker, and regularly liaises with law enforcement in North America and Europe. Greg lives in Philadelphia, and is a magna cum graduate of the University of Pennsylvania.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): Illumintel Inc., President and owner.
2. Please identify the type(s) of work performed at #1 above: Internet policy, security, and technology consulting services.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: Illumintel provides services to several new TLD applicants.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Don Blumenthal

Don Blumenthal is Senior Policy Advisor to the Public Interest Registry, concentrating on security and stability, accountability and transparency, and abuse and other law enforcement related issues. In addition to serving on SSAC, he is a member of the ICANN Domain Security and Stability Analysis Working Group and the Whois Survey Working Group.

Don also is an adjunct professor at the University of Michigan School of Information and the Michigan State University School of Criminal Justice, teaching courses on information policy, enterprise security planning, contemporary privacy issues, and cybercrime and cybersecurity matters. In addition, he is on the Executive Board of the Coalition Against Unsolicited Commercial Email (CAUCE) and serves as a Strategic Advisor to the Online Trust Alliance (OTA).

Prior to joining PIR, Don was a consultant in Ann Arbor, specializing in information security natters. Before Ann Arbor, Don was at headquarters of the Federal Trade Commission, where his last assignment was to create and manage the Internet Lab, the agency's Internet investigations center. In addition, he provided legal and technical expertise for security and privacy investigations and policy projects and was involved in Internet governance policy initiatives. Prior to the Internet Lab, Don worked for the FTC in

central IT and as a trial attorney. His career also includes time with another federal agency, in private practice, and on Capitol Hill.

Don has been a frequent speaker on the topics of Internet and information security and privacy. He also has been a major contributor to American Bar Association privacy, security, and cybercrime publications, as well as to the ITU *Toolkit for Cybercrime Legislation*, the Cloud Security Alliance's *Security Guidance for Critical Areas of Focus in Cloud Computing*, and the 2011 *Recommended Security Guidelines for Airport Planning, Design, & Construction* prepared for the U.S. Transportation Security Administration.

Don was the recipient of numerous awards at the FTC, including the Award for Distinguished Service in 2006. He holds a J.D. from the University of Pennsylvania, a B.A. from Oberlin College, and a Certificate in Systems and Project Management from American University.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): Senior Policy Advisor, Public Interest Registry. As as aside for full disclosure, PIR has applied for four IDN versions of .org and for new .ngo and .ong gTLDs.
2. Please identify the type(s) of work performed at #1 above: I am a member of the policy group at PIR, which works on issues related to both public and ICANN policy, as well as industry activities. I cover many substantive areas, but my primary responsibilities are in security, privacy, abuse, compliance, and accountability and transparency.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: None.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Lyman Chapin

Lyman Chapin is co-founder and partner at Interisle Consulting Group, where he advises companies, non-profit organizations, and government agencies on Internet technology, policy, and governance; telecommunications network security and resilience; and critical infrastructure protection. Before starting Interisle in 2002 he was a Chief Scientist at BBN Technologies. Mr. Chapin is a Fellow of the IEEE, and was a founding trustee of the Internet Society. He has served as a Director of the Internet Corporation for Assigned Names and Numbers (ICANN), where he currently chairs the Registry Services Technical Evaluation Panel and the DNS Stability Panel, and as chairman of the Internet Architecture Board (IAB), the ACM Special Interest Group on Data Communication (SIGCOMM), and the ANSI and ISO standards groups responsible for Network and Transport layer networking standards. Mr. Chapin was a principal architect of the Open Systems Interconnection (OSI) reference model and protocols, and is the co-author of Open Systems Networking—TCP/IP and OSI. He currently serves as the USA/ACM representative to the International Federation for Information Processing Technical Committee on Communication Systems (IFIP TC6) and recently completed a five-year term as the USA representative to the NATO Science Committee networking panel. His professional interests include Internet technology, particularly routing, traffic engineering, and the Domain Name System (DNS); Internet governance; and information security and personal privacy.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): Interisle Consulting Group, LLC – Owner.

2. Please identify the type(s) of work performed at #1 above: Consulting to companies, non-profit organizations, and government agencies on Internet technology, policy, and governance; telecommunications network security and resilience; and critical infrastructure protection.
3. Please list any financial or other material relationship beyond *de minimus* stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: Interisle currently provides the following consulting services to ICANN:
    o Registry Services Evaluation Panel for the new gTLD program.
    o DNS Stability Evaluation Panel for the new gTLD program.
    o DNS Stability Panel for the IDN ccTLD Fast Track.
    o Registry Services Technical Evaluation Panel (RSTEP).
    o Name Collision in the DNS: A study of the likelihood and potential consequences of collision between new public gTLD labels and existing private uses of the same strings.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

KC Claffy

KC Claffy is founder and director of the Cooperative Association for Internet Data Analysis (CAIDA), based at the University of California's San Diego Supercomputer Center, and Adjunct Professor in the Computer Science and Engineering Department at UCSD. KC's research interests include measurement, analysis, and visualization of Internet workload, routing, topology and performance data. KC leads CAIDA's collection and curation of strategic Internet data sets and freely available tools and analysis methodologies to improve the scientific integrity of network research and to promote more informed engineering, business, and policy decisions regarding the Internet infrastructure.

Statement of Interest: CAIDA receives support from the U.S. Department of Homeland Security (DHS) Science and Technology Directorate for two projects: participation in PREDICT and Internet mapping.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): UCSD/SDSC, Research Scientist. ucsd/sdsc; UCSD, Adjunct Professor, Computer Science and Engineering Dept.; CAIDA, Founder and Director
2. Please identify the type(s) of work performed at #1 above: strategy, leadership, upper management, external outreach, fundraising, and internet research. more info at http://www.caida.org/home/about/annualreports/2012/
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: none to my knowledge. Funding sources for CAIDA at http://www.caida.org/home/about/annualreports/2012/#funding
4. Is your participation as an ssac member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? please answer "yes" or "no." if the answer is yes, please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Steve Crocker (former SSAC Chair)

Dr. Crocker is CEO and co-founder of Shinkuro, Inc., a start-up company focused on dynamic sharing of information across the Internet and on the deployment of improved security protocols on the Internet.

Dr. Crocker has been involved in the Internet since its inception. In the late 1960s and early 1970s, while he was a graduate student at UCLA, he was part of the team that developed the protocols for the Arpanet and laid the foundation for today's Internet. He organized the Network Working Group, which was the forerunner of the modern Internet Engineering Task Force and initiated the Request for Comment (RFC) series of notes through which protocol designs are documented and shared. For this work, Dr. Crocker was awarded the 2002 IEEE Internet Award.

Dr. Crocker's experience includes research management at DARPA, USC/ISI and The Aerospace Corporation, vice president of Trusted Information Systems, and co-founder of CyberCash, Inc. and Longitude Systems, Inc. His prior public service includes serving as the first area director for security in the Internet Engineering Task Force (IETF), the Internet Architecture Board (IAB), the IETF Administrative Support Activity Oversight Committee (IAOC), service on the Board of the Internet Society and the Board of The Studio Theatre in Washington, DC.

Dr. Crocker earned his B.A. in mathematics and Ph.D. in computer science at UCLA, and he studied artificial intelligence at MIT.

Steve Crocker was selected by the 2008 Nominating Committee to serve as a Board Member. He served as Chair of ICANN's Security and Stability Advisory Committee (SSAC) since its inception in 2002 until 2010, and he served as SSAC's non-voting Liaison to the ICANN Board until being selected by the Nominating Committee. He is currently chair of the Board. His current ends with the 2014 annual meeting, and he has applied for an additional term.

Statement of Interest: Shinkuro, Inc. receives support from the U.S. Department of Homeland Security (DHS) to foster the deployment of DNSSEC

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): Employer: Shinkuro, Inc. Position: CEO.
2. Please identify the type(s) of work performed at #1 above: DNSSEC deployment, sponsored by the U.S. Dept. of Homeland Security Science and Technology Directorate. Consulting to commercial companies related to DNS measurement. Development of collaboration software.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: I serve on ICANN's Board of Directors and am currently chair of the Board.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Revised April 8, 2014

Mark Kosters

Mark Kosters has over 27 years of experience as an applications developer, networking engineer, technical manager and executive. Over the last 22 years, he was a senior engineer at Data Defense Network (DDN) NIC, chief engineer and Principal Investigator under the NSF-sponsored Internet NIC (InterNIC), Vice

President of Research at VeriSign and currently working as CTO of ARIN. Over his career, he has been involved in application design and implementation of client/server tools, router administration, UNIX system administration, database administration, and network security. He has represented his various employers in various technical forums such as the IETF, RIPE, APNIC, and NANOG.

Additionally, Mark has been involved in Internet standards development, having co-authored RFCs on RWhois (RFC 1714 and 2167), Internet Registry IP Allocation Guidelines (RFC 2050), Root Name Server Operational Requirements (RFC 2870) and DNS Security (DNSSEC) Opt-In (RFC 4956). Mark also is currently serving a member of ICANN's Security and Stability Committee and ICANN's Registry Services Technical Evaluation Panel. Over the past years, Mark has participated in ICANN's Root Server System Security Committee and ARIN's Advisory Council.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): CTO of ARIN (American Registry for Internet Numbers). For more information about ARIN, please check https://www.arin.net.
2. Please identify the type(s) of work performed at #1 above: I am responsible for all of ARIN's engineering activities – going from development to operations.
3. Please list any financial or other material relationship beyond de minimis stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: I'm one of the technologists available in RSTEP . My employer, ARIN, is a non-profit that annually funds ICANN via the NRO.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): None.

Russ Mundy

Mr. Mundy has worked in communications, security and computer networking since the 1970's. His current position is the Principal Networking Scientist at Parsons where he leads a group engineers, researchers and developers whose primary focus is improving the security of Internet infrastructure technologies.

Much of Mr. Mundy's early career was with the U.S. Department of Defense (DoD) where his responsibilities involved many aspects of design, engineering, security and operations of communications and computer networks. Mr. Mundy was involved with the DoD's decision to use ARPAnet technology as the basis for DoD's operational data network. As the first large-scale operational use of technology that is now known as Internet, Mr. Mundy was involved with creation and evolving of DNS, several routing protocols, remote network management as well as sponsoring the fledgling Internet Engineering Task Force (IETF). Mr. Mundy's last position in the DoD was as Chief Scientist for the U.S. DoD's Defense Data Network.

After leaving the U.S. DoD, Mr. Mundy took a position with Trusted Information Systems (TIS) as a senior research scientist where he lead and conducted research in the areas of Internet infrastructure security, network security, trusted operating systems and protocol development. The group currently led by Mr. Mundy was initially formed at TIS with the mission of improving the security of the Internet infrastructure. This group has been involved with purchases several times and is now part of Parsons. Mr. Mundy and his group has been involved with most aspects of DNSSEC from it's earliest days including writing the first implementation and providing IETF Working Group leadership. Mr. Mundy was also instrumental in creation and standardization of SNMPv3 as the Chair/CoChair of the IETF SNMPv3 Working Group as well as providing two implementations of the protocol. He has also conducted research in the areas of routing security and integration of computing and cryptographic technologies.

Statement of Interest: Companies that employ Mr. Mundy and his group (currently Parsons) receive support from the U.S. Department of Homeland Security (DHS), several elements of the U.S. Department of Defense (DoD) and commercial activities that facilitate the development, standardization and deployment of technologies (such as DNSSEC) that improve Internet infrastructure security.

Disclosure of Interest:

Please identify your current employer(s) and position(s).

Employers: Parsons

Position: Principal Networking Scientist

Additional Note: A significant portion of my SSAC activities are 'contributions for the good of the Internet', i.e., it is not work for my employer.

Please identify the type(s) of work performed at #1 above: Parsons provides engineering, construction, technical, cyber, and professional services to a wide range of industries with a focus on transportation, environmental/infrastructure, defense/security, and resources. For more about Parsons, please visit www.parsons.com <http://www.parsons.com>. Within Parsons, I am responsible for overall management of a group of researchers, engineers and developers whose primary mission is improving the security of the Internet Infrastructure.

Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN. Parsons has no financial or material relationship with ICANN.

Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Rod Rasmussen

Rod Rasmussen co-founded IID and is the company's lead technology development executive. He is widely recognized as a leading expert on the abuse of the domain name system by criminals. Rasmussen is co-chair of the Anti-Phishing Working Group's (APWG) Internet Policy Committee and serves as the APWG Industry Liaison, representing and speaking on behalf of the organization at events around the world. Rasmussen is a member of the Online Trust Alliance's (OTA) Steering Committee. He is a member of the FCC's Communications Security, Reliability and Interoperability Council (FCC CSRIC). Rasmussen is also an active participant in the Messaging Malware Mobile Anti-Abuse Working Group (M3AAWG), and is IID's Forum of Incident Response and Security Teams (FIRST) representative. He is a regular participant in DNS-OARC meetings, the worldwide organization for major DNS operators, registries and interested parties, and in ICANN's series of DNS Security, Stability, and Resiliency Symposiums. Rasmussen earned an MBA from the Haas School of Business at UC-Berkeley and holds two bachelor's degrees, in Economics and Computer Science, from the University of Rochester. He has worked in both government (the Congressional Budget Office) and various computer communications and networking companies throughout his career.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): President and CTO, Internet Identity (IID) – note that IID is a DBA for Digital Footprints International, LLC

2. Please identify the type(s) of work performed at #1 above: All IID technology development, product management, and operational service offerings come under my purview, along with industry outreach and public policy development.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: IID provides security services both directly and through channels to several gTLD registries and registrars and has subcontracted to other organizations on various ICANN-directed research projects/studies. IID is also a reseller of domain registrations (largely our own and for security, sinkholing, and research) from numerous gTLD registrars.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No.

Mark Seiden

Mark Seiden, a programmer since the '60s, has worked since 1983 in areas of security, network, and software engineering for many companies world-wide. As a Yahoo Paranoid and as a consultant, recent projects have included design, architecture, and implementation for e-business systems, security for online financial transaction processing and fora distributed document processing system, as an expert in computer crime cases, testing of network, procedural and physical security in diverse deployed systems, enterprises, and colocation facilities, and trying to understand and model bad-guy behavior on the Internet.

Particular SSAC-related interests:

- Putting in place a way to deal with fraud domains economically (now a good Samaritan registrar suffers fees for containing just-registered fraud domains (or plays "catch and release" against the fraudsters.)
- Mechanisms for detecting and mitigating domain hijacking.
- Mechanisms for making dynamic addresses more accountable.
- Mechanisms for reporting abuse events to registrars more efficiently
- Best practices for communicating with customers without making them phishing targets.

Some less relevant details:

- Time Digital named Mark one of the 50 "CyberElite" in their first annual list, and he's been involved with four (US) National Academy of Sciences studies on some trippy subjects. Mark was the first registrant of the domain food.com, and is a chowhound in many countries. He's been played by an actor in a rather bad movie, and his Erdos number is 4.

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): MSB Associates, CEO and Board Member. MSB is a small (~5 person) "boutique" consultancy. (it operates more like a cooperative than a real company in that the corporate stockholders are all employees and former employees and we have to date passed earnings and costs through to the responsible employees.)
2. Please identify the type(s) of work performed at #1 above: Aside from general corporate management, i provide consulting services to clients, some of whom have used my services for > 10 years. My own practice has been in technology consulting and many

aspects of security, particularly information and physical security and abuse, and related compliance areas.

3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: None that I know of.

4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s)

   Yes. I need to arrange with my larger clients prior to the time of remote SSAC meetings to take the time off or work remotely so to not cause them disruption. I am not sure if you consider this an "arrangement".

Paul A Vixie

Dr. Paul Vixie is the CEO of Farsight Security. He previously served as President, Chairman and Founder of Internet Systems Consortium (ISC), as President of MAPS, PAIX and MIBH, as CTO of Abovenet/MFN, and on the board of several for-profit and non-profit companies. He served on the ARIN Board of Trustees from 2005 to 2013, and as Chairman in 2008 and 2009. Vixie is a founding member of ICANN Root Server System Advisory Committee (RSSAC) and ICANN Security and Stability Advisory Committee (SSAC).

Vixie has been contributing to Internet protocols and UNIX systems as a protocol designer and software architect since 1980. He is considered the primary author and technical architect of BIND 8, and he hired many of the people who wrote BIND 9 and the people now working on BIND 10. He has authored or co-authored a dozen or so RFCs, mostly on DNS and related topics, and of Sendmail: Theory and Practice (Digital Press, 1994). He earned his Ph.D. from Keio University for work related to the Internet Domain Name System (DNS and DNSSEC).

Disclosure of Interest:

1. Please identify your current employer(s) and position(s): Farsight Security, Inc., CEO.
2. Please identify the type(s) of work performed at #1 above: Subscription services relating to online security, currently focused on telemetry collection/sharing, and Passive DNS database access.
3. Please list any financial or other material relationship beyond de minimus stock ownership that you or your employer has with any individual, company, or other entity that to your knowledge has a financial or other material relationship with ICANN: Founder at ISC, a non-stock company who has a back end registry service for new GTLD's, and a secondary name service that serves at least 50 TLD's. I have no ongoing relationship with ISC as of July 1, 2013. Founder at DNS-OARC, a non-stock company who aids DNS industry participants including ICANN in the publication and study of data related to DNS operations. My son works for Uniregistry, who has applied for a large number of new GTLD strings. I am a consultant to Cogent Communications, where I provide political and technical guidance for their C-Root service.
4. Is your participation as an SSAC member the subject of any arrangements or agreements between you and any other group, constituency, or person(s)? Please answer "yes" or "no." If the answer is "yes," please describe the arrangements or agreements and the name of the group, constituency, or person(s): No

Curriculum Vitae

<u>Geoffrey Huston, B.Sc, M.Sc.</u>

Confidential Personal Information