

Transfer Policy Review Working Group

ICANN78 Meeting
21 October 2023



Agenda

1. Welcome and Chair updates
2. Transfer Dispute Resolution Policy (“TDRP”) – Registrant Access
3. TDRP updates in light of EPDP – Temp Spec – Phase 1, Recommendation 27
4. If time allows, presentation of Group 2 – ICANN-approved transfers recommendations and any feedback received
5. AOB

Welcome & Chair Updates

Chair Updates



- ICANN-approved transfers - stable condition after Tuesday
- Revisit Registrant Access to Transfer Dispute Resolution Policy (TDRP)
- EPDP Phase 1, Recommendation 27, Wave 1 as they relate to TDRP
- If time allows, Group 2 - ICANN-approved transfers recap
- AOB

Chair Updates

Project Tracking & Rollup DASHBOARD

ICANN | GNSO
Generic Names Supporting Organization



Project Name PDP: Transfer Policy Review **Program** Transfers **Project Sponsor** GNSO Council

Project Information **Tasks by Status** **Project Contacts** **Participant Summary**

61%

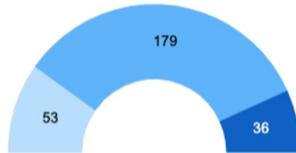
% Complete

02/18/21

Actual Start

06/19/25

Planned Finish



● Not Started ● Complete ● In Progress

Roger Carney

Chair

n/a

Vice_Chair

Oswaldo Novoa

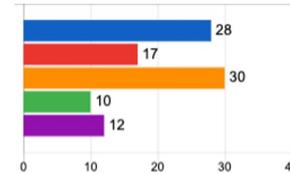
Liaison

CT Caitlin Tubergen

Staff_Lead

BC Berry Cobb

Project_Manager



● Member ● Alternate
● Observer - Email Only ● Staff - Assigned
● Staff - Not Assigned

Project Status & Health

Project_Status	Project_Health
Revised Schedule	On-Target

Summary Gantt & Key Milestones

Health	Primary Task	Current Start	Current Finish	% Complete	Status	Timeline (2021-2025)											
						Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	PDP: Transfer Policy Review	02/18/21	06/19/25	61%	In Progress	[Gantt bars for PDP: Transfer Policy Review]											
	PROJECT CONTROL	02/18/21	06/19/25	72%	In Progress	[Gantt bars for PROJECT CONTROL]											
	GROUP DELIBERATIONS	05/13/21	11/14/24	73%	In Progress	[Gantt bars for GROUP DELIBERATIONS]											
	Group 1A Policy Topics	06/03/21	05/11/22	100%	Complete	[Gantt bar for Group 1A Policy Topics]											
	Group 1B Policy Topics	09/28/23	06/05/24	26%	In Progress	[Gantt bar for Group 1B Policy Topics]											
	Group 2 Policy Topics	02/02/23	09/27/23	100%	Complete	[Gantt bar for Group 2 Policy Topics]											
	INITIAL REPORT	06/24/21	11/06/24	69%	In Progress	[Gantt bars for INITIAL REPORT]											
	Publish Initial Report - Group 1A	06/15/22	06/15/22	100%	Complete	[Gantt bar for Publish Initial Report - Group 1A]											
	Publish Initial Report - Groups (1A, 1B & 2)	08/21/24	08/21/24	Not Started	Not Started	[Gantt bar for Publish Initial Report - Groups (1A, 1B & 2)]											
	FINAL REPORT	08/04/22	02/05/25	22%	In Progress	[Gantt bars for FINAL REPORT]											
	Review of public comments - Group 1A	08/04/22	09/14/22	100%	Complete	[Gantt bar for Review of public comments - Group 1A]											
	Review of public comments - Groups (1A, 1B & 2)	11/07/24	12/18/24	Not Started	Not Started	[Gantt bar for Review of public comments - Groups (1A, 1B & 2)]											
	Submission of Groups (1A, 1B & 2) Final Report to the GNSO Council	02/05/25	02/05/25	Not Started	Not Started	[Gantt bar for Submission of Groups (1A, 1B & 2) Final Report to the GNSO Council]											

Registrant Access to Transfer Dispute Resolution Policy (TDRP)

(TDRP) Recommendation Refresher

Charter Question: g3) If the TDRP is considered to be insufficient: i. Are additional mechanisms needed to supplement the TDRP? ii. Should the approach to the TDRP itself be reconsidered?

Prelim. Rec. 1: The Working Group recommends the GNSO request an Issues Report or other ***suitable mechanism to further research and explore the pros and cons of (i) expanding the TDRP to registrant filers and*** (ii) creating a new standalone dispute resolution mechanism for registrants who wish to challenge improper transfers, including compromised and stolen domain names. In making this recommendation, the Working Group recognizes that if such an effort were ultimately adopted by the GNSO Council, this request could be resource-intensive and will require the Council to consider the appropriate timing and priority against other policy efforts.

IN SHORT: REQUEST TO GNSO



WG Feedback following draft recommendation

Feedback from ALAC:

- The view of the ALAC is that the **Registrant should be given the opportunity to initiate a TDRP**. Furthermore, this should be **included in the recommendations** given by the Working Group.



- At the same time, the ALAC finds it unreasonable that the only option for a Registrant is to take an Inter-registrar transfer dispute to court.



Potential Options



- **Previously Scoped by IRTP-D**

- Require registrar-provided rationale in the event registrar refuses to file TDRP
- Allow the registrant to be responsible for any fee required by the TDRP provider
- Open TDRP to registrant filers (where registrant is responsible for payment of fee, irrespective of outcome – similar to UDRP). In this case, also similar to UDRP, the registrars would be responsible for registrar verification of data.
- Leave recommendation as is
- Other Options?

Rec. 27 - TDRP

EPDP - Temp Spec - Rec. 27 Refresher

EPDP (RegData) Team Recommendation #27. “The EPDP Team recommends that as part of the implementation of these policy recommendations, updates are made to the following existing policies / procedures, and any others that may have been omitted, **to ensure consistency with these policy recommendations** as, for example, a number of these refer to administrative and/or technical contact which will no longer be required data elements:

- Registry Registration Data Directory Services Consistent Labeling and Display Policy
- Thick WHOIS Transition Policy for .COM, .NET, .JOBS
- Rules for Uniform Domain Name Dispute Resolution Policy
- WHOIS Data Reminder Policy
- Transfer Policy
- Uniform Rapid Suspension System (URS) Rules
- **Transfer Dispute Resolution Policy”**

EPDP - Temp Spec - Rec. 27 Refresher

- ICANN org delivered impact paper
- Relevant section: “TDRP section 3.2.4 provides that a panel appointed by a TDRP provider will “review all applicable documentation and compare registrant/contact data with that contained within the authoritative Whois database and reach a conclusion not later than thirty (30) days after receipt of Response.” ***This provision relies on comparison with the "authoritative Whois database," which does not have a clear analogue in the new Registration Data Policy.***”

EDPP - Temp Spec - Rec. 27 Refresher

Two Potential Options

- Data could be requested by the panel (similar to UDRP), though that may result in duplicative data; OR
- Requirements could be written at a higher level
- In the [current draft](#), both are included – thoughts?



Group 2 Recommendations Recap

GROUP 2

- Transfer Emergency Action Contact (TEAC)
- Transfer Dispute Resolution Policy (TDRP)
- EPDP Phase 1, Recommendation 27, Wave 1 as they relate to TEAC/TDRP
- ICANN-Approved Transfers



Group 2: (TEAC) Recommendation Refresher



Prelim. Rec. 1: Section I.A.4.6.3 of the Transfer Policy states, “Messages sent via the TEAC communication channel must generate a non-automated response by a human representative of the Gaining Registrar. The person or team responding must be capable and authorized to investigate and address urgent transfer issues. Responses are required within 4 hours of the initial request, although final resolution of the incident may take longer.” The working group recommends that the policy must be revised to ***update the required timeframe for initial response from 4 hours to 24 hours / 1 calendar day.***

IN SHORT: TIMING CHANGE (4 hours to 24 hours)



Group 2: (TEAC) Recommendation Refresher



Prelim. Rec. 2: Section I.A.4.6.2 of the Transfer Policy states in part, “. . . Communications to a TEAC must be initiated in a timely manner, within a reasonable period of time following the alleged unauthorized loss of a domain.” The working group recommends that the Transfer Policy must be updated to state that the ***initial communication to a TEAC is expected to occur no more than 30 days following the alleged unauthorized loss of a domain.*** If the initial communication to the TEAC occurs more than 30 days following the alleged unauthorized loss of a domain, the Losing Registrar must provide a detailed written explanation to the Gaining Registrar’s TEAC justifying why this is an emergency situation that must be addressed through the TEAC channel and providing information about why earlier contact to the TEAC was not possible.

IN SHORT: NEW REGISTRAR REQUIREMENT



Group 2: (TEAC) Recommendation Refresher



Prelim. Rec. 3: Once a Gaining Registrar has provided an initial non-automated response to a TEAC communication as described in Section I.A.4.6.3 of the Transfer Policy, the Gaining Registrar must provide additional, ***substantive updates by email to the Losing Registrar at least every 72 hours / 3 calendar days until work to resolve the issue is complete.*** These updates must include specific actions taken by the Gaining Registrar to work towards resolution.

IN SHORT: NEW REGISTRAR REQUIREMENT



Group 2: (TEAC) Recommendation Refresher



Prelim. Rec. 4: The working group recommends that *initial communication to the TEAC described in Section I.A.4.6.2 of the Transfer Policy must either be in the form of email or, if the primary TEAC communication channel is designated as a phone number or other method, the verbal/non-email communication must be accompanied by an email communication to the TEAC.* This email “starts the clock” for the 24-hours response timeframe specified in Preliminary Recommendation 1. The Gaining Registrar receiving the TEAC communication must respond by email within 24 hours.

IN SHORT: NEW REGISTRAR REQUIREMENT



Group 2: (TEAC) Recommendation Refresher



NOTE: The Working Group discussed the possibility of a “**fast undo**” mechanism or **clawback mechanism**, but **could not come to agreement** on pursuing this further.

- A Small Team worked on drafting a process of how informal resolution occurs today, and how the process could potentially be added to the Transfer Policy as a fast undo mechanism.
- After presenting the [proposed process](#) to the Working Group, the majority of members believed there was no compelling reason to add the informal resolution to the Transfer Policy, as it appears to be working today as a “fast undo”.
- The WG instead pivoted to TEAC requirements to see if they could be amended to assist with fast resolution. (Some requirements in the [fast undo proposed process](#) have been added to new TEAC requirements, e.g., 1, 3, 5.)

Group 2: (TDRP) Recommendation Refresher



Prelim. Rec. 1: The Working Group recommends the *GNSO request an Issues Report* or other suitable mechanism to further research and explore the pros and cons of (i) expanding the TDRP to registrant filers and (ii) ***creating a new standalone dispute resolution mechanism for registrants who wish to challenge improper transfers, including compromised and stolen domain names.*** In making this recommendation, the Working Group recognizes that if such an effort were ultimately adopted by the GNSO Council, this request could be resource-intensive and will require the Council to consider the appropriate timing and priority against other policy efforts.

IN SHORT: REQUEST TO GNSO



Group 2: (TDRP, Rec. 27) Recommendation Refresher



Prelim. Rec. 3: The working group recommends the following specific terminology updates to the Transfer Dispute Resolution Policy:

- (i) The term "Whois data" SHALL have the same meaning as "Registration Data".
- (ii) The term "Whois details" SHALL have the same meaning as "Registration Data".
- (iii) The term "Publicly accessible Whois" SHALL have the same meaning as "RDDS".
- (iv) The term "Whois" SHALL have the same meaning as "RDDS".

For the avoidance of doubt, the terms referenced in above in Recommendation 14 (i) - (iv) are intended to correspond to the definitions in the Registrar Accreditation Agreement ("RAA"). In the event of any inconsistency, the RAA definitions, if updated, will supersede. The working group also recommends that the outdated terms should be replaced with the updated terms, e.g., all references to "Whois Data" should be replaced with the term "Registration Data," etc.

IN SHORT: TERMINOLOGY UPDATE



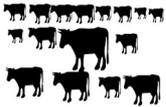
Group 2: (ICANN-Approved Transfers) Recommendation Refresher

- There has been some general confusion in the WG re: bulk transfers, so we will be using some explanatory icons to aid understanding. There are three types of bulk transfers:

1. A registrar is transferring ALL of its gTLD domains to another registrar, because it will no longer operate as a registrar (on a voluntary or involuntary basis). This is akin to a farmer selling their entire farm to a buyer.



1. A registrar is transferring all of its names in a certain gTLD(s) because it will no longer offer those TLDs but will continue operating as a registrar with other approved TLDs, i.e., an RRA is voluntary or involuntarily terminated. This is akin to a farmer deciding to sell all of their cattle to an interested buyer (with no intent in raising cattle anymore), but the farmer will keep growing crops and raising other animals. *Note: there are no specific recommendations for this scenario, but is included for illustrative purposes only.*



1. A registrar sells off a portion of its domain name portfolio to another registrar, but will continue offering all of the same TLDs. This is akin to a farmer selling one its cows, but still has cattle and continue to acquire new cattle.



Group 2: (ICANN-Approved Transfers) Recommendation Refresher



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



IN SHORT: UPDATE TO REGISTRY REQUIREMENT



Group 2: (ICANN-Approved Transfers) Recommendation Refresher



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



IN SHORT: UPDATE TO REGISTRY REQUIREMENT



Group 2: (ICANN-Approved Transfers) Recommendation Refresher



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

IN SHORT: UPDATE TO REGISTRY REQUIREMENT



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

IN SHORT: UPDATE TO REGISTRY REQUIREMENT



Group 2: (ICANN-Approved Transfers) Recommendation Refresher



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



IN SHORT: NEW REGISTRY REQUIREMENT



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



IN SHORT: NEW ICANN REQUIREMENT



Group 2: (ICANN-Approved Transfers) Recommendation Refresher



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



IN SHORT: CONFIRMATION OF EXISTING REQUIREMENT



Group 2: BTAPPA Recommendation Refresher



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



IN SHORT: NEW REGISTRY REQUIREMENT



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



IN SHORT: NEW REGISTRAR REQUIREMENT



Group 2: BTAPPA Recommendation Refresher



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

IN SHORT: CONFIRMATION OF EXISTING BTAPPA BOILERPLATE



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

IN SHORT: CONFIRMATION OF EXISTING BTAPPA BOILERPLATE



Group 2: BTAPPA Recommendation Refresher



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



IN SHORT: NEW REGISTRAR REQUIREMENT



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



IN SHORT: NEW REGISTRY REQUIREMENT



Group 2: BTAPPA Recommendation Refresher



Prelim. Rec. 7: In the case of a change of sponsorship, the ***Gaining Registrar MUST NOT impose a new inter-registrar transfer lock preventing affected registrants from transferring their domains to another Registrar.***



IN SHORT: NEW REGISTRAR REQUIREMENT



Group 2: (TEAC + TDRP + Bulk Transfers) Deliberations Refresher

TPR WG Resources:

- ❖ [Transfer Policy](#), Section I.A.4.6, I.B
- ❖ [Transfer Dispute Resolution Policy](#)
- ❖ [TEAC Working Document](#)
- ❖ [TDRP Working Document](#)
- ❖ [Rec. 27 TDRP Working Document](#)
- ❖ [ICANN-Approved Transfers Working Document](#)