

# Report of Public Comments

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<b>Staff Contact:</b> Lars Hoffmann	<b>Email:</b> <a href="mailto:policy@icann.org">policy@icann.org</a>
<b>Section I: General Overview and Next Steps</b>	
<p>The <a href="#">Inter-Registrar Transfer Policy</a> (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. The IRTP Part D Policy Development Process (PDP) is the forth and final PDP of this series of revisions</p> <p>The Generic Names Supporting Organization (GNSO) unanimously <a href="#">approved</a> at its meeting on 15 October 2014 the following policy recommendations, which will be submitted to the Board for adoption after the conclusion of the public comment period:</p> <p><b>Recommendation #1 - Reporting requirements to be incorporated into the TDRP policy.</b> Outcomes of all rulings by Dispute Resolution Providers (DRP) <sup>1</sup> 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 GNSO recommends publishing reports that follow the example of the Asian Domain Name Dispute Resolution Centre (ADNDRC).<sup>2</sup> These reports should include at a minimum:</p> <ul style="list-style-type: none"><li>a) The domain name under dispute</li><li>b) Relevant information about parties involved in the dispute;</li><li>c) The full decision of the case;</li><li>d) The date of the implementation of the decision</li></ul> <p>The need for publication does not apply to TDRP rulings that have taken place prior to the</p>	

<sup>1</sup> 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.

<sup>2</sup> See four ADNDRC Reports on TDRP decisions: [http://www.adndrc.org/mten/TDRP\\_Decisions.php?st=6](http://www.adndrc.org/mten/TDRP_Decisions.php?st=6)

implementation of this recommendation.

**Recommendation #2 - The TDRP to 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.”

**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 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 - 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.<sup>3</sup>**

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

**Recommendation #7 – To add a list of definitions (see Annex F of the Final Report) to the TDRP to allow for a clearer and more user-friendly policy.**

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<sup>3</sup> <https://www.icann.org/resources/pages/policy-transfers-2014-07-02-en>

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

**Recommendation #9 -Staff, in close cooperation with the IRTP Part C Implementation Review Team, to 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 Issue 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 TDRP to 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 - 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.**

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

**Recommendation #12 - ICANN is 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.**

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 - 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 resellers 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.

**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. Rather, sanctions should be consistent throughout policies and be governed by applicable provisions within the RAA.**

**Recommendation #16 –The elimination of FOAs is not recommended. However, in light of the problems regarding FOAs, such as bulk transfers and mergers of registrars and/or resellers, the GNSO Council 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 implementation of this recommendation should not be affected by whether transfers take place in advance (for certain bulk transfers) or in real time.

**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.**

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 it is recommended 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 - 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.**

## Section II: Contributors

*At the time this report was prepared, a total of three (3) community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor’s initials.*

### Organizations and Groups:

Name	Submitted by	Initials
Registries Stakeholder Group (RySG)	Paul Diaz	RySG
Business Constituency (BC)	Steve del Bianco	BC

### Individuals:

Name	Affiliation (if provided)	Initials
John Horton	LegitScript	JH

## Section III: Summary of Comments

*General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).*

The RySG endorses all recommendations and especially supports the proposed review of the IRTP and TDRP under Recommendations 17 and 18.

In his public comment JH is especially focused on the problem of rogue online pharmacies. For reasons detailed in his submission he would like to see Recommendation #6 modified and he proposes an alternative policy recommendation: 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,' 'URS action' and 'other action consistent with the registrar's obligations under Section 3.18 of the 2013 RAA, such as suspending services based on illegal activity as defined in Section 1.13 of the 2013 RAA' 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.

The BC provided comments to express its support for all 18 recommendations. The BC notes that they believe that there 'must be a mechanism for registrants to initiate [TDRP] proceedings when registrars decline to initiate them.' But they agree that Recommendation #10 alleviates 'some concerns and confusion of Registrants by highlighting the options for redress.' In this light, the BC supports the recommendation to monitor the TDRP for possible future policy work as mentioned in Recommendations #17 and #18.

#### **Section IV: Analysis of Comments**

*General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.*

As the RySG and BC both support all recommendations, no further analysis of their comments is required at this stage.

John Horton raises a number of important points about the broader question as to what should be the reasons for a Registrar of Record to deny a transfer request. The commenter suggests that one such reason that a Registrar of Record should be able to deny a transfer request is if the Registrar of Record has received a report of abuse for the registered name that the Registered Name Holder is seeking to transfer, and the Registrar of Record has suspended the name in response to the report of abuse. However, his proposed amendment to the wording of Recommendation #6 are considered to be outside the scope set by the IRTP Part D Charter. Specifically, the Working Group was tasked under Charter Question C to address the issue of multiple hops and as a remedy the Working Group recommended to introduce a lock on those domains that have a TDRP launched against them. The issue JH's comment addresses is related to alleged fraudulent use of websites and thus unrelated to multiple hops of registrars. It is worth noting that if the domain name holder engages in a fraudulent transfer then the lock will apply – once Recommendation #6 in its current form is implemented.