

	Transfer Emergency Action Contact (TEAC)	Unmet Need?	Transfer Dispute Resolution Policy (TDRP)
Purpose & Use	Enables urgent communications to Rrs about transfers (used by Rrs, Rys, ICANN org) Most useful in straightforward cases where reversal is needed (transfer is clearly erroneous)		Used to resolve a dispute about a transfer (two registrars disagree about validity of transfer)
Method of Resolution	Direct resolution between registrars		Independent third party makes decision
Timeframe for Initiation	Within a “reasonable period of time” following the alleged unauthorized loss of a domain		No later than twelve (12) months after the alleged violation of the Transfer Policy
Urgency	Intended to be used in emergencies		Typically lower urgency
Potential Limitations Raised by WG Members	Only useful when registrars work together and agree to a resolution No set SLA for resolution of an issue raised through TEAC channel, so resolution may take time		Time and cost required to resolve disputes Registrant has no direct channel to initiate disputes (must work through registrar)

I. Codify Informal Resolution

Proposal: Add guidelines, rules, and/or requirements to codify informal resolution between registrars when there is a problem with a transfer. As a baseline, this option does NOT involve reversal of a transfer or other “automatic” changes unless both registrars agree. Processes could potentially distinguish between emergency and non-emergency situations.

Problem it may solve: Not enough structure around existing processes for informal resolution of transfer problems where registrars work together and agree to a solution. Resolution may not be happening fast enough and there are no consequences if a registrar is not responsive.

Discussion points:

- From one perspective, codifying the process will create more transparency around what is expected from each party. This may be especially beneficial to registrants. It may also facilitate collecting better metrics on cases that are and are not resolved. Formalizing the process could establish requirements that registrars respond when contacted for informal resolution. Currently, from one perspective, some registrars are not cooperative when contacted for informal resolution.
 - Requirements could include: SLA for initial response to a request for informal resolution, documentation the registrar is expected to provide.
- If registrars are uncooperative, will formalizing the process really fix the problem? Or is a better dispute resolution process really what WG members are looking for? Alternative: Make recommendations for the TDRP to be quicker, cheaper, more accessible, etc.
- Reminder: If the process only involves reversal by agreement by the two parties, the gaining registrar is still responsible to the registrant if it agrees to reverse the transfer. Formalizing the process doesn't address concerns about liability/indemnity.
- Possible outcomes:
 1. Registrars mutually agree to reverse transfer
 2. No agreement takes place and the issue is not escalated further
 3. No agreement takes place and the issue is escalated (TDRP or courts)
- Would requirements for the process apply to cases where the Transfer Policy has been violated, as well as those where it has not (for example, theft)?
- Some support expressed for documenting the process for informal resolution where both parties are cooperative. A small team was formed to create a proposal for requirements and/or guidelines.

Discussion questions:

- Is there evidence that the current process for informal resolution is insufficient? If not, what is the reason for codifying?

- Are WG members willing to share examples of when informal resolution was used successfully (with personal data redacted)?
Examples of when it fell short?
- If more structure is added:
 - Should this be in the form of policy requirements or guidelines?
 - Should there be two distinct paths, one for emergency (leveraging the TEAC) and one for non-emergency situations?
 - See TEAC working document for summary of discussion on this question.
 - What are the timeline requirements? What are the consequences if timelines are not met?
 - Should the “new” registrant have the opportunity to challenge or interact with its registrar before a potential transfer is agreed to by the registrars?

I.A. Additional Element for consideration: DNS Reversal

Proposal: If two registrars are actively working to solve an issue with a transfer and a DNS change has occurred, the gaining registrar submits an EPP command to cause that the registry updates the DNS during the period that they are working out the issue.

Problem it may solve: Reduces impact of a “bad” transfer for the period that resolution is underway by returning services that would have been interrupted by the DNS change.

Discussion points:

“Cooperative” path:

- Where both registrars agree to update the DNS temporarily, the registry does not need to be involved.
- Support expressed for having this as a “tool in the toolbox” for friendly resolution, where appropriate. WG members noted that each case is different, so the facts of the situation will need to be taken into account to determine if this is appropriate.
- Some noted that it would be helpful to document how the Losing Registrar should make the request to the Gaining Registrar and what information should be included in the request, as well as the timeframe for responding, records that need to be maintained, etc.
- Summary:
 - DNS Reversion can be a component of the remedy, but requires careful and subjective review on a case-by-case basis.

- It should be upon request as opposed to being mandatory or automated.
- It should be performed by the sponsoring registrar via standard EPP commands in the SRS.

“Uncooperative” path:

- Some WG members expressed that it should be mandatory for the Gaining Rr to revert the NS upon notification by the Losing Rr.
- Others expressed support for the idea that if the Gaining Registrar is unresponsive or uncooperative the Losing Registrar should have the ability to revert, which would require support from the registry.
 - Some WG members expressed that this would help registrants in specific situations where their business or customers are being harmed.
 - From another perspective, if you are talking about uncooperative parties, reversion gets complicated. There can't be discretion. The rules need to be very clear.
 - There may be a lot of corner cases that are difficult to remedy for registries. Registries do not support being “in the middle” where judgment calls need to be made.
 - It was further noted that a Losing Registrar could make a claim with no merit, and the results could be disruptive.
 - It was noted by one WG member that if there is no careful, objective, balanced assessment of the facts, there are risks associated with this approach.
- From one perspective, the consequences of DNS rollback are poorly understood. It would include splitting control of the DNS from the sponsoring registrar. If the group goes down the path of some form of automatic reversal, it's simpler to undo the whole transfer.

Other considerations:

- One WG member reminded the group that you can't just revert the NS. You have to consider where the zone contents are and make sure those are also “reverted”.
- It was noted that logistically to make reversion possible, registrars will need to keep track of name server records and well as content of the zone in order to be prepared to put it back.
- It was noted that there may be complexities related to DNSSEC. The working group noted that resolving such issues is outside the scope of this PDP.

Discussion questions:

- Should this proposal be pursued further given concerns raised by registries about implementation?
- To what extent would there be discretion involved and by which parties?

I.B. Additional Element for consideration: Locking

Proposal: Optional extension of the thirty day lock period on inter-registrar transfers while two registrars are working together on a transfer-related problem.

Problem it may solve: Registrars actively working together to resolve an issue may take more than 30 days, and the registrant may transfer to a third registrar once the 30-day period has ended.

Discussion questions:

- Would this be a requirement or something discretionary? If discretionary, what would it look like in practice?

Discussion points:

- WG members agreed that this could be a “tool in the toolbox” of informal resolution, to be used when both registrars agree it is appropriate.

I.C. Additional Element for consideration: Fast Undo

Proposal: If the Gaining Registrar does not respond in a set time period, the transfer is automatically reversed.

Problem it may solve: If the Losing Registrar is seeking informal resolution of a non-emergency issue related to a transfer, the Gaining Registrar may not be responsive. TDRP is a slow and expensive option.

Discussion points:

- The WG recalled that earlier discussions about the fast undo concept had their origins in SAC007 (2005), which identified the need for further work to address concerns about domain name hijacking. It was noted that the conditions and landscape have evolved, and therefore the policy needs may also have evolved as well. Some working group members noted that hijacking seems to be less prevalent than it was at the time of SAC007 and subsequently IRTP B, although hijacking can have still

have a significant impact when it occurs. It was further noted that IRTP considered the ETRP as one option to address concerns expressed about hijacking in SAC007. Ultimately, the ETRP was not recommended and establishing the TEAC channel was recommended.

- It was noted by some WG members that a number of concerns about ETRP were raised in IRTP B, and if the group can't find a solution to address those concerns, fast undo is not viable.
- From another perspective, absent a better option for losing registrants to pursue cases of domain name theft, some sort of automatic undo is the best path.
- From another perspective, if there is a dispute, the case needs to go to a court or to a TDRP. These are the correct places to resolve these cases. If it's an emergency, the TEAC is available.
- Concern: The gaining registrant is reliant on the gaining registrar to respond. The gaining registrant may not even be aware of the issue, unlike with the TDRP. The gaining registrant does not have a clear opportunity to intervene if the gaining registrar is not responding/advocating on the registrant's behalf. Many registration agreements limit the ability of the registrant to sue their registrar, reducing legal options for recourse.
 - Response: The proposal is not unlike what already happens under TEAC requirements. It is the role of the registrar to advocate for their registrant. Notification requirements could be built in, perhaps using a web form.
 - Counterpoint: This mechanism may be used more frequently than the TEAC.
- Concern: This mechanism may be used more often than the TEAC, and has the same risks of gaming the deadline.
- Concern: A seller could attempt to reverse a transfer that was completed legitimately. This buyer doesn't have certainty of title during the period that it is possible to reverse.
 - From one perspective, this proposal may be more acceptable if it does not apply where money changes hands.
 - There could be a situation where a bad actor hijacks a domain name and sells it to an innocent third party. This should be taken into account when using an escrow service. Perhaps the money stays in escrow longer until the clawback period ends.
- For time sensitive issues, emergency court orders are an option. Mechanisms for emergency court orders have built-in protections. This is a better solution according to some.
- There are different perspectives within the working group on where the burden of proof should fall when a dispute occurs.
 - From one perspective, if the two registrars don't clearly and expressly agree to reverse a transfer, then the status quo should remain, meaning the post-transfer state and the current registrant, unless the dissatisfied party has reversed through the courts or through TDRP.
 - From another perspective, the losing registrant has more to lose because they are already using the domain and may risk damage. There is a chance that a domain can be stolen through, for example, unauthorized account access, so the losing registrant is more vulnerable. Therefore, default reversal is appropriate.

- Counterpoint: There is no option that is clearly preferable. The gaining registrant also potentially has much to lose if they paid for the domain name and the seller tries to reverse the transfer. Courts are the appropriate place to resolve these types of disputes.
- One working group member noted that new technologies might support implementation of fast undo, but it may not be clear if it is worth exploring further, as there may not be a clear problem to solve.

Discussion questions:

- Is there evidence that there is a significant problem with cases where the losing registrar is seeking informal resolution of a non-emergency issue related to a transfer and the gaining registrar does not respond?
- If there is evidence that this is a problem, is this the only/best solution to the problem, given the concerns raised?
- Would this option be more acceptable if it is not allowed where money changes hands?
- If there is support for this proposal, additional elements to consider:
 - What if someone makes a “bad call”? How is liability handled?

Summary of concerns raised about the previously proposed ETRP (see slides [here](#))

Concern Raised about ETRP	Relevant to Fast Undo? If no, why not? If yes, how is the concern addressed?
Creates uncertainty for the acquiring party	
Extremely disruptive to the secondary domain marketplace to the detriment of both sellers and purchasers	
Subject to substantial abuse - no effective sanctions for individuals who abuse the mechanism	
There are no clearly delineated due process rights for domain name purchasers – there needs to be a way to challenge an ETRP	
A common hijacking approach is to gain control of the victim's email address and/or registrar account. Security efforts should be aimed at this problem.	

Before introducing a new policy, data from registrars is needed to scope the problem of hijacking – the data could be gathered anonymously by a third party.	
This requires registrars and/or registries to judge the merits of a hijacking claim by the losing registrant – essentially making them responsible for high-speed dispute evaluation/resolution and leaving the process open to gaming.	

I.D. Additional Element for consideration: “Escalation” to TDRP

Proposal: If the Gaining Registrar does not respond in a set time period to a request for informal resolution, a TDRP is initiated.

Problem it may solve: TBD

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Discussion questions:

- What would it mean in practice to “default” to a TDRP? Is that desirable in practice?
- Who would pay?

Discussion points:

- The WG clarified that initiation of the TDRP should never be automatic. Rather, if guidelines for informal resolution are developed, they should explain where the TDRP may be the next logical step in cases that informal resolution is not working.
- As a reminder, the TDRP can only be used in cases of violation of the Transfer Policy.

II. Registrant Initiated Disputes

Proposal: Option for dispute resolution that registrants can directly access.

Problem it may solve: Registrants may not be getting the resolution they need with the existing tools.

- In cases of informal resolution, there is a high risk for a gaining registrar that agrees to transfer a domain back (unless they are fully indemnified). In such cases the transfer back may not happen.
- Registrants may not have access to courts of mutual jurisdiction.
- For TDRP, the registrant must convince the registrar to initiate a dispute. The registrar might have different incentives than the registrant in making the decision about whether to do so.

Discussion points:

- While the working group noted that it may not be appropriate to expand the TDRP (see deliberations under CQ g3 [here](#)), some working group members support recommending to the GNSO Council that future work be completed to determine if a new mechanism for registrants should be created.

Discussion questions:

- Is there evidence to support that there is a problem to solve here?
 - For example, are there frequent instances of registrants asking registrars to challenge improper transfers where registrars fail to do so?
 - Are there frequent instances of registrants filing disputes like this with their respective court system?
 - Are WG members able to point to other examples of issues that may give rise to discussing a registrant option further?

Early Written Input from the ALAC:

The present TDRP prevents a Registered Name Holder (RNH) from initiating a transfer dispute. The current charter questions are worded in a way that the TPR working group may be unable to discuss the development of transfer dispute policy as an option for a RNH to initiate a transfer dispute.

ACTION: At-Large strongly recommends adding a charter question for deliberation that includes the possibility for a RNH to initiate a transfer dispute using the TDPR.

Early Written Input from the BC:

Yes, there should be a recommendation for a registrant-initiated transfer dispute resolution procedure to address domain name theft.

III. Disputes - No Violation of Transfer Policy

Proposal: Dispute resolution mechanism for cases where the transfer is inappropriate but the Transfer Policy was not violated.

IV. No New Mechanism Needed

Discussion points:

- Registrars have improved their security models and their operational workflows to address many issues that result in domain theft. With GDPR and other new and updated laws, there are fewer opportunities for domain theft. The working group does not need to create something new or dramatically change what already exists.

Questions Asked as Part of Request for Early Written Input:

The following is question is not included in the PDP charter, but the working group would nonetheless appreciate community input to support its deliberations:

The Transfer Policy, formerly known as the Inter-Registrar Transfer Policy (IRTP), has been the subject of previous policy development work through a series of PDPs known as IRTP Parts A-D. In 2010, the IRTP Part B Working Group published an Initial Report, which included a proposal to establish an Expedited Transfer Reversal Policy (ETRP) that would create a mechanism for “the timely, cost-effective reversal of an Inter-Registrar domain name transfer, restoring the registration to its pre-transfer state.”⁴

The proposal was met with criticism from some parts of the community. In particular, public comments on the Initial Report stated that the proposal would create uncertainty for the acquiring party, disrupt the secondary domain name marketplace, and be subject to abuse.⁵ The ETRP was ultimately not included in the IRTP Part B Proposed Final Report.⁶

Some Transfer Policy Review working group members have expressed that they see value in re-considering the possibility of introducing a “quick undo” process like the ETRP to exist alongside the TEAC and TDRP. The working group would appreciate input on the following questions:

- Is there value in reviving the ETRP proposal or a modified version of the proposal? If so, what changes may be appropriate to address concerns expressed by the community in 2010?
- Are there new facts or circumstances that would make it possible for such a proposal to achieve consensus support now when it was not possible in 2010?
- What specific needs would the “quick undo” meet that cannot be met by the TEAC and TDRP?

RySG Response:

The RySG encourages the review of the “Proposed Final Report on the Inter-Registrar Transfer Process - Part B Policy Development Process” document (dated 21 February 2011). The document includes a summary of the Public Comment Period on the Initial Report and provides context about the reasons it was removed from the Initial Report (dated 29 May 2010).

Additionally, we note that the Initial Report, in its Executive Summary, provides important context on the origin of the concept for the ETRP: a July 2005 Report from SSAC called “Domain Name Hijacking: Incidents, Threats, Risks, and Remedial Actions”, now referred to as SAC-007.

Given the general increase in the sophistication within the industry as it relates to inter-registrar transfers during the 10+ years this the ETRP has been discussed, the RySG notes that registrant account compromise is a far more formidable threat as a domain control hijacking vector in today’s environment than transfer-based mechanisms.

While we are not opposed to the discussion of such a mechanism and welcome the introduction of well- considered approaches, we have not seen data to suggest there is a great need for such a mechanism in today’s market, and we suggest that there may be other areas of policy implementation that would provide a greater benefit to the community.

RrSG Response:

The RrSG generally support the undo process that the WG is already considered, but we can review ETRP to see what ideas they had which we should also look into, or what pitfalls were identified that we can learn from.

ALAC Response:

At-Large welcomes the opportunity to review the Expedited Transfer Reverse Policy (ETRP). We are in favor of adding this to the GNSO-TPR PDP deliberations.

BC Response:

Is there value in reviving the ETRP proposal or a modified version of the proposal? If so, what changes may be appropriate to address concerns expressed by the community in 2010?

Past experience had clearly demonstrated that there is no reasonable possibility of creating a transfer reversal procedure beyond what exists with the TEAC and the informal resolution undertaken by registrars. No further time or effort should be wasted on this front.

Are there new facts or circumstances that would make it possible for such a proposal to achieve consensus support now when it was not possible in 2010?

No.

What specific needs would the “quick undo” meet that cannot be met by the TEAC and TDRP?

The dangers of a “quick undo” have been extensively canvassed previously and there is no practical solution beyond what current exists.