

GNSO Transfer Policy Review Policy Development Process

NCSG Comments

The public comment facility requests comments for each recommendation separately.

Each recommendation has 5 options for “level of support” as follows:

- Support Recommendation as written
- Support Recommendation intent with wording change
- Significant change required: changing intent and wording
- Recommendation should be deleted
- No Opinion

In addition, the form asks, for each recommendation:

- If your response requires an edit or deletion of Recommendation #x, please indicate the revised wording and rationale here.

At the end of the section for recommendations, there are three further questions. This document outlines the NCSG responses to each recommendation and the questions:

Recommendations 1 – 17:

Level of Support: Support Recommendation as written.

Recommendation 18: Transfer Restriction After Inter-Registrar Transfer

Level of Support: Support Recommendation intent with wording change.

Revised wording: Remove 18.3 (“The specific request includes a reasonable basis for removal of the restriction) and replace with the following specific reasons for lifting the restriction (as outlined in the text): Legitimate circumstances surrounding an escrow intermediary affecting the completion of the acquisition of the involved registered domain name; To complete documented registered domain name acquisition (aftermarket purchase, portfolio consolidation, or bona fide purchase); Intentional release of the registered domain name that had transferred to the Registrar where it becomes evident the domain name use would be in violation of the Registrar’s Acceptable Use Policy (AuP), Terms of Service (ToS), or local law or other similar governance.

Rationale: While the NCSG welcomes the standardization and implementation of transfer restrictions after registration and transfer, we note that recommendation 18 also contains a provision which allows the lifting of the 30-day restriction based on “a reasonable basis for removal of the restriction”. While the NCSG strongly prefers that the policy clearly articulates the acceptable exceptions, rather than the vague “reasonable basis for removal of the restriction” statement. We do not see how ICANN compliance can adjudicate claims against policy statements of this nature, and it leaves the policy open to malicious activities which undermine the security intent. The NCSG believes that the implementation guidance contained in the

document already articulates the acceptable exceptions, and the policy should be adjusted to limit the lifting of the transfer restrictions to these specific reasons.

Recommendations 19 – 20:

Level of Support: Support Recommendation as written.

Recommendation 21: Revised Reasons that a Registrar of Record MAY Deny a Transfer

Level of Support: Support Recommendation intent with wording change

Revised wording: Add to I.A.3.7.1 (“Evidence of (a) fraud or (b) DNS Abuse as defined in Section 3.18.1 of the Registrar Accreditation Agreement”) a requirement that the registrar present the evidence behind the denial and explain mechanisms available to the registrant to either resolve and/or challenge the denial.

Rationale: Like the comment regarding recommendation 18, the NCSG remains uneasy regarding the provision in recommendation 21 that registrars “may” deny a transfer for reasons that may not be entirely clear, specifically for a claim of fraud or DNS abuse and especially because the concept of DNS abuse is so vague. In these cases, although registrants can directly engage with their registrar to resolve such matters, we feel the recommendation can be strengthened by adding a requirement that registrars present the evidence behind the denial and explain mechanisms available to the registrant to either resolve and/or challenge the denial.

Recommendations 22 – 25:

Level of Support: Support Recommendation as written.

Recommendation 26: Standalone Policy and Updates to Section II of Transfer Policy

Level of Support: Support Recommendation intent with wording change

Revised wording: Replace 26.4 (text describing the removal of the 60-day lock on Change of Registrant Data within the new stand alone policy) with “Registrars must impose a 30 day transfer restriction after material changes in registrant data, with the option to release the restriction in a manner similar to Recommendation 18” (or similar text).

Rationale: The NCSG supports the concept of a standalone policy for Change of Registrant Data, however, we believe that material changes should follow security mechanisms similar to those for transfers. We understand that this can impose hardship in certain circumstances, again, similar to transfers, and therefore agree that some mechanism for lifting the transfer in specifically-designated circumstances would be appropriate.

Recommendations 27 – 47:

Level of Support: Support Recommendation as written.

1. Are there any recommendations the TPR PDP Working Group has not considered? If yes, please provide details below.

NCSG Response: No

2. Did you find the updated format of the recommendations helpful in your review of the Initial Report?

NCSG Response: Yes

3. Are there any other comments or issues you would like to raise pertaining to the Initial Report? If yes, please enter your comments here. If applicable, please specify the section or page number in the Initial Report to which your comments refer.

NCSG Response: The NCSG appreciates the opportunity to provide input on the proposed recommended changes to the existing transfer policy. We recognize the importance of these recommendations, as the transfer function sits close to the heart of the management of domain names by all stakeholders.

The NCSG supports a review and amendment of the Transfer Dispute Resolution Policy to allow registrants the opportunity to participate directly in this process.