Disclaimer: This summary is not a full and complete recitation of the relevant comments received. It is an attempt to capture in broad terms the nature and scope of the comments. This summary has been prepared in an effort to highlight key elements of these submissions in an abbreviated format, not to replace them. Every effort has been made to avoid mischaracterizations and to present fairly the views provided. Any failure to do so is unintentional. The comments may be viewed in their entirety at http://forum.icann.org/lists/irtp-b/.

Summary and analysis of public comments for the Inter-Registrar Transfer Policy Part B Policy Development Process

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I. BACKGROUND

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. The policy is an existing GNSO consensus policy (for more information about consensus policies, please see http://www.icann.org/en/general/consensus-policies.htm) that was implemented in late 2004 and is now being reviewed by the GNSO Council. In order to facilitate this review, the Council has sub-divided the issues and initiated a Policy Development Process (PDP) on those issues grouped together in part B on 24 June 2009. An IRTP Part B Working Group was chartered to review and provide recommendations on the following issues:

- Whether a process for urgent return/resolution of a domain name should be developed, as discussed within the Security and Stability Advisory Committee (SSAC) hijacking report (http://www.icann.org/announcements/hijacking-report-12jul05.pdf [PDF, 400K]); see also (http://www.icann.org/correspondence/cole-to-tonkin-14mar05.htm);
- Whether additional provisions on undoing inappropriate transfers are needed, especially with regard to disputes between a Registrant and Admin Contact (AC). The policy is clear that the Registrant can overrule the AC, but how this is implemented is currently at the discretion of the registrar;
- Whether special provisions are needed for a change of registrant when it occurs near the time of a change of registrar. The policy does not currently deal with change of registrant, which often figures in hijacking cases;
- Whether standards or best practices should be implemented regarding use of a Registrar Lock status (e.g. when it may/may not, should/should not be applied);
- Whether, and if so, how best to clarify denial reason #7: A domain name was already in 'lock status' provided that the Registrar provides a readily accessible and reasonable means for the Registered Name Holder to remove the lock status.

II.   GENERAL COMMENTS and CONTRIBUTIONS

Seven (7) community submissions from six different parties have been made to the public comment forum. The contributors are listed below in alphabetical order (with relevant initials noted in parentheses):

Bob Ross (BR)
Charles Christopher (CC)
Patrick Mevzek (PM)
Pieter van Ieperen (PI)
Registrar Constituency by Clarke D. Walton (RC)
WIPO Arbitration and Mediation Center (WIPO)

III.   SUMMARY & ANALYSIS

Three submissions (BR, CC) related to issues not of relevance to the charter questions, such as Whois accuracy, privacy and a complaint relating to a specific registrar. The other contributors provided input on the different charter questions or other related issues for consideration. A summary of all comments can be found hereunder.

In relation to the charter questions, the following comments were submitted:

1. **Whether a process for urgent return/resolution of a domain name should be developed, as discussed within the Security and Stability Advisory Committee (SSAC) hijacking report (http://www.icann.org/announcements/hijacking-report-12jul05.pdf [PDF, 400K]); see also (http://www.icann.org/correspondence/cole-to-tonkin-14mar05.htm);**

PM questions whether the incidence of a few hijacking cases warrants the development of a new procedure and recommends that the WG first assesses the effectiveness of the existing Transfer Dispute Resolution Policy (TDRP) to determine whether any modifications should be made there or whether it should be replaced. PM also wonders how it would be possible to unite urgent return with due diligence, as the latter requires sufficient time while the former requires rapid action. As in his view the problem does not lie with the actual transfer, but with the DNS change, he suggests to recommend 'no domain updates possible for one week after a finished transfer, so that it gives time to intervene if it happens that the transfer by itself was fraudulous'.

The RC also supports the possible adjustment and refinement of the TDRP to reduce the overall timeframe to resolve disputes, which might make the need for a separate procedure obsolete. In addition, the RC suggests discussion of 'best practices for the voluntary transfer of names in cases of fraud'.

2. **Whether additional provisions on undoing inappropriate transfers are needed, especially with regard to disputes between a Registrant and Admin Contact (AC). The policy is clear that the Registrant can overrule the AC, but how this is implemented is currently at the discretion of the registrar;**

PM proposes that either the AC is made the authoritative contact which would not allow the reversal of a transfer by the Registrant, or the approval of both the Admin Contact and the Registrant would be required to complete a transfer.

WIPO suggests the inclusion of provisions that would require a registrar to undo an inappropriate transfer of a domain name that is subject to UDRP proceedings, which would therefore be in violation of an obligation of the registrant under paragraph 8 of the UDRP policy.

In the opinion of the RC, the current policy is clear concerning disputes between the Admin Contact and the registrant. The RC notes that if the policy is not adhered to by registrars, ICANN should consider providing additional guidance to registrars in the form of an advisory.

3. **Whether special provisions are needed for a change of registrant when it occurs near the time of a change of registrar. The policy does not currently deal with change of registrant, which often figures in hijacking cases;**

PM supports that 'any kind of changes such as transfers or contacts / registrant change should be followed by a cooling off period where nothing else could happen', but proposes that such a cooling off period should not be longer than 10 days.

4. **Whether standards or best practices should be implemented regarding use of a Registrar Lock status (e.g. when it may/may not, should/should not be applied);**

PM recommends that 'any discussion be put in line with the current protocols as "Registrar-Lock" was used with RRP which is now superseded by EPP'. He notes that as a result, there are a number of different statuses available to the registrar and assumes that this question relates to the 'clientTransferProhibited' status value. In his view, the use of this status by registrars should not be limited, but instead it should be possible for registrants 'to change this status online through their respective registrars'. PM points out that 'in EPP, each status value can be associated with a message (in any language) […], explaining the reason of the status. This message is optional and seems to be seldom used, but it could be useful for registrars to provide it as it would give an explanation for the basis that enabled this status value'.

PI proposes specific language for inclusion in chapter 3 (Obligations of the Registrar of Record) of the transfer policy similar to that in chapter 5 (EPP - based Registry Requirements for Registrars) to ensure that the domain is unlocked within five days of receipt of a request by registrant, unlocking is not more restrictive than other mechanisms used to make changes and unlocking is not refused on the basis of a conflict between the registrant and registrar over payment. PI also advocates that the lock status in the registry should be the same as the lock status at the registrar, so no hidden lock.

WIPO recommends the 'inclusion of provisions strengthening that domain names subject to UDRP proceedings must be locked by the Registrar of Record for the pendency of a UDRP proceeding', in addition to additional guidance to registrars on how to use the lock status in the case of UDRP proceedings. PI proposes specific language to address this issue.

5. Whether, and if so, how best to clarify denial reason #7: A domain name was already in 'lock status' provided that the Registrar provides a readily accessible and reasonable means for the Registered Name Holder to remove the lock status.

PM recommends that registrars 'should be required to document why a domain is in clientTransferProhibited status'. In addition, yearly checks should be carried out to verify that clients can lock and unlock as they please.

General comments and other considerations

As a general comment, PM questions the need for policy development to address issues that have only occurred once or twice pointing out that 'whatever policies and technical solutions are put in place, there always will be a percentage of unavoidable problems'.

WIPO requests that the WG also gives consideration to the potential impact on the Uniform Domain Name Dispute Resolution Policy (UDRP) and points to confusion over and the different interpretations of the provisions relating to denial of a transfer of domains subject to UDRP proceedings. WIPO points out that the current provisions state that the registrar of record 'may' deny a transfer if the domain name is subject to a UDRP proceeding, while 'must' should be the appropriate term and request the WG to consider 'the inclusion of such safeguard provisions in the Policy'.

The RC points to the importance of developing definitions for the different terms used in the charter questions to ensure correct understanding of the different concepts. In addition, the RC notes that 'domain name transfer issues must always be considered along with relevant security issues'.

IV.   NEXT STEPS

The Inter-Registrar Transfer Policy Part B Working Group is expected to consider all the relevant comments as part of their deliberations on the charter questions.