

Dear Transfer Policy Review Team,

Thank you for allowing us the opportunity to comment on the report Initial Report on the Transfer Policy Review Policy Development Process - Phase 1(a).

At the Noncommercial Stakeholders Group, we care about not for profit use of the Internet and human rights. Some of those rights are privacy and freedom of expression as well as security.

Transfer policies can have grave consequences for noncommercial registrants rights. We are pleased to see that some of those problems have been handled in phase one.

- We agree that the previous policies that needed the registrars access to sensitive private information of domain name registrants are not legally viable anymore. Therefore we agree with and applaud the working group for not pursuing specific methods for coming up with transferring or accessing private/sensitive information of domain name registrants without a clearly legitimate purpose. (See working group response to Charter Question a1 and the recommendation: Preliminary Recommendation 1: The working group recommends eliminating from the Transfer Policy the requirement that the Gaining Registrar send a Gaining Form of Authorization. This requirement is detailed in section 1.A.2 of the Transfer Policy.)
- We support the series of enhancements presented to the security of transfer authorization code. We emphasize that dual factor authentication is a best practice that registrars and registries should not hesitate to implement to protect their customers.
- Recommendation number 19: Preliminary Recommendation 19: "The working group recommends revising the following reasons that the Registrar of Record MAY deny a transfer request as follows:
Evidence of fraud or violation of the Registrar's domain use or anti-abuse policies.
We don't believe that recommending reasons that registrars MAY deny a transfer request is within the scope of this group. ICANN contractual has to use the usual legal tools to interpret compliance rules. These recommendations can be abused and be interpreted broadly. However, we agree with some of the changes, especially crossing out "reasonable dispute over the identity of domain name registrant..." We don't believe the identity of the domain name registrant should be a factor in denying transfer or registrar should get involved with identifying domain name registrant at least when it comes to ICANN policies.
- Transfer policy fee: we raised this multiple times on the mailing list and during working group meetings. We have heard there are cases of high transfer fees in some registrars. This is especially very restrictive for noncommercial users. Therefore, as the policy recommendations mentions the ground nonpayment as one of the denial of transfer, we expect to see the issue of high fees in terms of domain name transfer be fully discussed and addressed by the working group and requiring unreasonable fees be discouraged.

In addition, the transfer policy fees can be agreed and discussed by mutual agreement between the different parties.

- We believe if you discuss the reasons that MAY deny a transfer, sanctions should be discussed as a reason. Ordinary noncommercial registrants who are not on special designated national list are subject to discrimination and on several instances transfer of domain names are not allowed by the registrar, the registrars just confiscate it. The working group decided not to discuss this issue or even dismiss it. We invite the working group to at least highlight the issue and if it believes it's out of scope, express it.

We thank you for considering our comments. We also wanted to mention some work modality shortcomings. As the noncommercial stakeholders who do this on a voluntary basis we cannot always be present during meetings. We suggest a more serious consideration of our comments on the mailing list so that members can asynchronously participate.