

Inter-Registrar Transfer Policy (IRTP) Audit Report

Executive Summary

This is a report on an Inter-Registrar Transfer Policy (IRTP) compliance audit that ICANN recently conducted.

ICANN's Contractual Compliance monitors trending in registrar compliance with the IRTP through the consumer complaints received by ICANN and registries' monthly transaction reports. In the year 2009, it is estimated that, on average, approximately 385,000 gTLD domains were transferred between registrars each month.

While the IRTP appears to provide an effective framework for facilitating transfers, ICANN has identified a number of measures (such as registrant/registrar education, audits and proactive enforcement actions) to improve the overall registrar compliance level. The IRTP audit is part of these ongoing compliance efforts.

Following a beta IRTP audit conducted in May 2010, ICANN commenced the first formal IRTP audit in September 2010. A total of 19 registrars and 127 transfer transactions were subject to this audit and the key findings of the audit are:

- 16 out of 19 registrars provided their responses to ICANN within the specified timeline - representing 84% compliance rate.
- 10 out of 19 registrars were deemed compliant with the IRTP - representing 53% compliance rate.
- 75 out of 127 transfer transactions were deemed in compliance with the IRTP - representing 59% compliance rate.

Background

The IRTP is one of ICANN's consensus policies. The policy prescribes how domain name registrations may be transferred between ICANN-accredited registrars. The policy aims to provide domain portability and better consumer choice.

Transfer problems persistently top all consumer complaints received by ICANN. For a 12-month period up to October 2010, ICANN received 20,780 consumer complaints, out of which 5,814 related to transfer issues. This represents almost 30% of all complaints (or 70% after excluding those complaints that ICANN does not have contractual authority to address).

To address this issue, Contractual Compliance, in consultation with key registrar representatives, developed a draft "IRTP Audit Plan". A beta audit was conducted in May 2010 and the results

were published in Contractual Compliance's Newsletter October 2010:
<http://icann.org/en/compliance/archive/compliance-newsletter-201010-en.htm>).

After the beta audit, the draft IRTP Audit Plan was further fine-tuned (taking into account further input from registrars) and the first round of the formal IRTP compliance audit commenced in September 2010.

Audit Objectives

The primary purposes of this formal audit are to:

- gain a better understanding of the actual transfer problems encountered by consumers;
- gauge the level of registrar compliance with the IRTP;
- raise registrars' awareness and understanding of their obligations and improve overall level of registrar compliance with the IRTP; and
- inform the community of audit results to assess the effectiveness of the existing policy and identify areas for improvement or potential policy recommendations.

Audit Methodology

Due to the vast number of transfers occurring each month and the large number of registrars involved, it was not feasible to examine each transfer transaction or each registrar's transfer practices. Take .COM domain registrations as an example, the average number of transfer requests initiated each month in 2009 was 289,251 (representing 0.35% of total .COM domain registrations).

As such, random selection mechanisms as set out in the IRTP Audit Plan were used to select four groups of registrars to be audited:

- Group 1: Transfer-losing-registrars with NACK rates exceeding 20% (capped to top 10 registrars)
- Group 2: Transfer-gaining-registrars with NACK rates exceeding 40% (capped to top 5 registrars)
- Group 3: 5 registrars who received the most transfer complaints by number
- Group 4: 5 registrars who received the most transfer complaints by ratio (see the calculation set out in the IRTP Audit Plan)

Selection of Groups 1 & 2 registrars was based on VeriSign's July 2010 transactional report and only involved .COM transfer transactions, while selection of Groups 3 & 4 registrars was based on data from ICANN's complaint intake system (C-ticket System) of the same month. Using these two sets of data and the selection mechanisms, a total of 19 registrars were subject to the audit.

As of 31 July 2010, the total number of gTLD domain names sponsored by these 19 registrars was 66,669,792, which represented 55% of the total 120,821,830 gTLD registrations.

2 out of the 19 registrars are under the 2001 version of the Registration Accreditation Agreement (RAA), while the other 17 registrars are under the 2009 RAA. Audit notices were sent to registrars that were subject to the audit by email and by fax. A copy of the IRPT Audit Plan was attached to the audit notice. All registrars were allowed more than 15 days to provide the documents and information requested by ICANN.

General Audit Findings

16 registrars provided their initial responses on or before the deadline of 23 September 2010, while the other 3 required multiple follow-ups. Registrars with unclear or insufficient responses were requested to provide ICANN with further clarifications or additional information.

The table below is a summary of the audit findings:

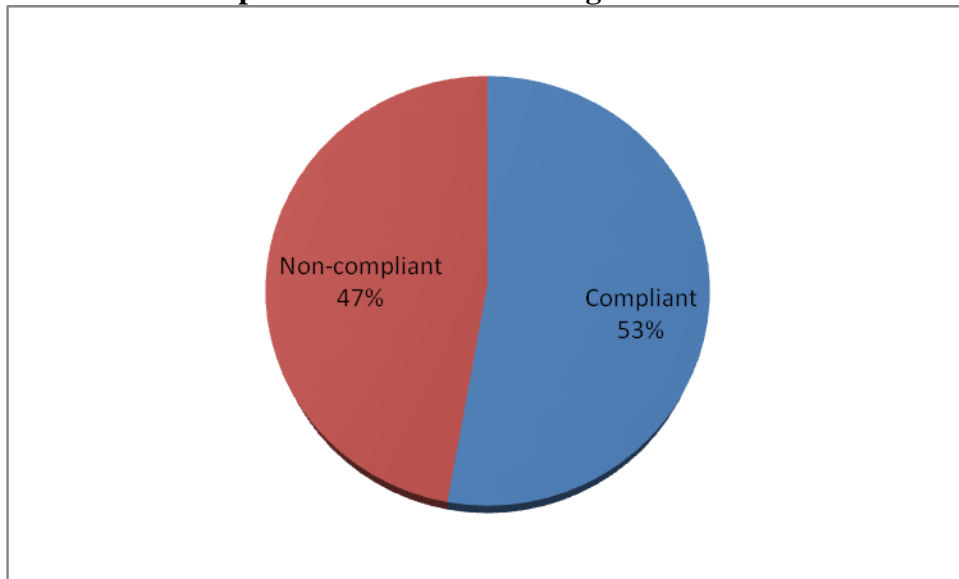
Group	Group Description	Number of Registrars Audited	Number of transfers/ complaints selected per registrar	Number of registrars deemed compliant*	Number of registrars deemed non-compliant	Compliant registrars by % in the Group	Compliant registrars by % in the Group (May 2010 beta audit)
1	Losing	6	10 or actual	3	3	50%	50%
2	Gaining	5	10 or actual	3	2	60%	100%
3	Complaints by number	**3	5	1	2	33%	50%
4	Complaints by ratio	5	5	3	2	60%	75%

* Under the IRTP Audit Plan, a registrar is deemed compliant if each of its transfer transactions that were subject to the audit was considered in compliance with the IRTP.

** 2 registrars fell within both Groups 3 and 4 and therefore these two registrars were treated as Group 4 registrars.

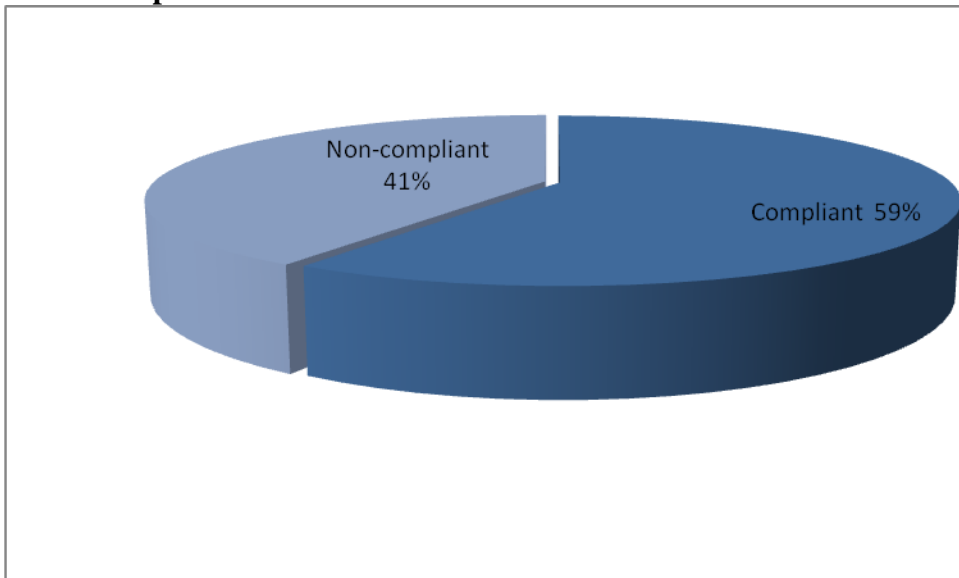
10 out of the 19 registrars audited were deemed compliant with the IRTP. This represents a 53% compliance rate.

Compliance Rate Based on Registrars audited



75 out of 127 transfer transactions reviewed were deemed compliant with the IRTP. This translates to 59% of transactions being deemed compliant.

Compliance Rate Based on Transfer Transactions Audited



Findings Specific to Group 1:

In the month examined (July, 2010), there were 310,692 successful transfers. In addition, there were 11,046 (3.5%) transfer requests that were denied (NACKed) by the losing registrars. It is

likely that the number of actual domains involved was much less than 11,046 as an individual domain may be NACKed multiple times before successfully being transferred. Of the 11,046 transfers denied, 9,276 (84%) were from just 4 registrars. Of the 897 active registrars, 766 (85%) did not NACK any domain transfer requests.

6 registrars and a total 43 transfer transactions were reviewed. The focus of the review was to assess whether the losing registrar had valid grounds to refuse a transfer request permitted by the IRTP.

3 registrars and 22 transactions audited in this group were deemed non-compliant.

Out of those 43 transfer transactions, one specific domain name registered to the losing registrar’s parent company was repeatedly NACKed due to human error (according to the registrar’s response). The table below shows the reasons claimed by registrars as basis for denying the other 42 transfer requests that were subject to the audit:

Reasons for denial (Section 3 of IRTP)	Description of reason for denial	Number of Transactions	Percentage (out of total 43 transactions)
Item 4	Reasonable dispute over identity of Transfer Contact	8	19%
Item 5	No payment for previous registration period	14	33%
Item 6	Express written objection to the transfer from Transfer Contact	10	23%
Item 7	Domain was already in “lock status”	10	23%

One registrar claimed Item 5, Section 3 of the IRTP (no payment for previous registration) as the reason for denying all 10 transfer requests, but the WHOIS outputs provided by the registrar indicated that those domains were not put in “Registrar Hold” status as required under the IRTP.

Another registrar also claimed the same reason for denying 3 transfer requests, but all those requests were initiated during the Auto-Renew Grace Period. However, registrars are prohibited from denying domain name transfer requests based on non-payment of fees for pending or future registration periods during the Auto-Renew Grace Period (see the Registrar Advisory Concerning the Inter-Registrar Transfer Policy <http://www.icann.org/en/announcements/advisory-03apr08.htm>).

A registrar claimed Item 4, Section 3 of the IRTP (reasonable dispute over identity of the Transfer Contact) as the reason for denying 9 transfer requests, but was not able to provide evidence to demonstrate compliance. During a telephone conversation with ICANN staff, the registrar’s representative admitted that the registrar’s practice was not in compliance with the IRTP.

Findings Specific to Group 2:

5 registrars and a total 44 transfer transactions were reviewed. The focus of the review was to assess whether express authorization from the Transfer Contact was obtained by the gaining registrar, as required by the IRTP.

2 registrars and 14 transactions audited in this group were deemed non-compliant.

One registrar admitted that it did not use the FOAs and the other registrar failed to provide copies of the FOAs, after numerous requests from ICANN.

The audit found that some registrars relied on FOAs that were obtained well before July 2010 and multiple transfer requests were “automatically initiated” and resulted in multiple NACKings.

Some registrars did not retain a copy of the WHOIS output for the date the specific transfer was initiated (as set out in the audit notice from ICANN) and contended that there is no WHOIS retention requirement under the IRTP.

Although the IRTP does not expressly require registrars to retain WHOIS outputs, registrars are advised to retain WHOIS outputs as a best practice. Indeed, such WHOIS retention obligation may be implied from Section 3.1.4 of the Transfer Dispute Resolution Policy (TDRP), which provides:

“3.1.4 The Request for Enforcement shall annex the following documentary evidence (as applicable and available) in electronic form if possible, together with a schedule indexing such evidence:

- (i) For the Gaining Registrar:*
 - a. Completed Form of Authorization ("FOA")*
 - b. Copy of the Whois output for the date transfer was initiated, which was used to identify the authorized Transfer Contacts*
 - c.”*

Findings Specific to Groups 3 & 4:

In the month of October 2010, ICANN received 341 complaints regarding transfer problems. ICANN processed these complaints by forwarding each complaint to the sponsoring registrar and followed up with registrars, if appropriate. ICANN’s past records indicate that approximately 75% of cases eventually became compliant with the IRTP.

8 registrars and a total of 40 transfer related complaints were reviewed (as 2 registrars fell within both Groups 3 and 4).

4 registrars and 16 transfer transactions/complaints audited in these two groups were deemed non-compliant.

During the course of this audit, some members of the Registrar Stakeholder Group expressed concerns over certain ambiguities in the IRTP concerning the role and responsibility of resellers

vis-à-vis registrars. The following response from a Group 3 registrar seems indicative of such confusion:

“We provide wholesales domains service for resellers, the end user was supposed to receive service from resellers to whom he/she paid and acting as their domain’s service provider.”

While the IRTP is silent regarding the role of resellers, ICANN is of the view that registrars are responsible for their resellers’ actions or inactions.

Consistent with historical data gathered by ICANN and the findings of the beta audit conducted in May 2010, this audit again found that, except 4 complaints where the transfer requests were initiated after the domains in question had expired, most transfer-related complaints arose from problems with delay or inability to obtain the “AuthInfo” Code, or domains still locked by the registrar of record. These two complaint categories are more prevalent where resellers were involved.

Based on the response provided by Groups 3 & 4 registrars, ICANN noted that some of the delays were caused by authentication or validation processes employed by registrars. ICANN recognizes the need for authentication of the Registered Name Holder who requested the “AuthInfo” Code, but registrars must also be mindful of their obligation to provide the Code within 5 calendar days of the initial request and they must ensure that they do *“not employ any mechanism for complying with a Registered Name Holder’s request to obtain the applicable “AuthInfo Code” that is more restrictive than the mechanisms used for changing any aspect of the Registered Name Holder’s contact or name server information”* (see Section 5 of the IRTP).

For example, ICANN notes a Group 3 registrar imposes a 2-year transfer prohibition after an on-line “change of registrant”. ICANN does not consider this practice appropriate as it does not meet the requirements set out in Item 6, Section 3 (express written objection to the transfer from Transfer Contact) and Section 5 of the IRTP.

Follow-up Actions

As stated in the IRTP Audit Plan, ICANN will follow up with registrars that were deemed non-compliant with the IRTP in this audit. Contractual Compliance staff will notify non-compliant registrars of their non-compliance issues identified in this audit and request registrars develop corrective plans to bring their practices and processes into compliance.

If registrars refuse to adapt their practices and processes to become compliant with the IRTP or fail to become compliant after a reasonable time frame, ICANN will pursue the non-compliant registrars through escalated compliance processes, including publication of breach notices and other related compliance documents.