

auDA PUBLISHED POLICY

Policy Title: TRANSFERS (CHANGE OF REGISTRAR OF RECORD) POLICY

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1. BACKGROUND

- 1.1 This document sets out auDA's policy on the transfer of a registered domain name which results in a change to the registrar of record in the registry database. This includes the following scenarios:
- a) where a registered domain name is transferred by the registrant from one registrar to another registrar;
 - b) where a registered domain name is transferred by a reseller on behalf of the registrant, from one registrar to another registrar; and
 - c) where the management of a registered domain name is transferred by a registrant from a reseller of one registrar to a different registrar, or to a reseller of a different registrar.
- 1.2 The following scenarios do not result in a change to the registrar of record in the registry database, and therefore are not addressed under this policy:
- a) where a registered domain name is transferred by the registrant from a reseller to another reseller of the same registrar;
 - b) where a registered domain name is transferred by the registrant from a reseller of one registrar to the same registrar; and
 - c) where a domain name licence is transferred from one registrant to another registrant.
- 1.3 This document does not detail the technical steps required to change the registrar of record in the registry database. This information is made available to all auDA accredited registrars by the registry.

2. TERMINOLOGY

- 2.1 This policy uses the following terms:
- a) "gaining registrar" means the registrar to which the registrant transfers their domain name;
 - b) "losing registrar" means the registrar from which the registrant transfers their domain name;
 - c) "domain name password" means the password that is issued to a registrant when they register a domain name, that must be used to authorise any change to the domain name record in the registry database;
 - d) "written request for transfer" means a request for transfer submitted to the gaining registrar by letter, facsimile, email or online form (request by telephone is not acceptable);

- e) "standard transfer confirmation message" means a letter, facsimile or email containing the text approved by auDA at Schedule A;
- f) "standard transfer audit message" means a letter, facsimile or email containing the text approved by auDA at Schedule B; and
- g) "Registrant Agreement" means the agreement between a registrar and a registrant that sets out the terms and conditions of the domain name licence.

3. TRANSFER POLICY PRINCIPLES

3.1 A key element of a competitive domain name marketplace is that registrants are able to transfer their domain names from one registrar to another (ie. change the registrar of record in the registry database). In the interests of promoting a competitive domain name industry in Australia, auDA has drafted this policy in accordance with the following principles:

- a) a registrant has the right to make an informed choice to transfer their domain name at any time during the domain name licence period, with no loss of remaining licence period;
- b) a registrant has the right to know all the material terms and conditions of the transfer, including any related costs or charges, before they agree to proceed with the transfer;
- c) a losing registrar does not have the right to delay or prevent a transfer; and
- d) under no circumstances may a gaining or losing registrar impose a transfer fee on the registrant, or any fee that could reasonably be construed as a transfer fee.

3.2 Internationally, domain name transfers have given rise to problems of customer churn, customer slamming and other undesirable practices. To minimise the risk of similar problems occurring in the .au domain, this policy requires the gaining registrar to obtain a valid domain name password and to confirm the transfer request with the registrant contact, prior to initiating a transfer. The combination of these two steps ensure that the "apparent authority" conferred by the domain name password is supported by actual authorisation that the registrant wishes to proceed with the transfer.

4. TRANSFER PROCEDURE

4.1 Prior to sending a transfer command to the registry, the gaining registrar must:

- a) receive a written request for transfer (see definition in paragraph 2.1) that includes a valid domain name password for the domain name;
- b) use the password to retrieve the full domain name record from the registry database;
- c) send a standard transfer confirmation message (see definition in paragraph 2.1) to the person who has requested the transfer and to the registrant contact listed in the database (if different);
- d) receive an affirmative response from the registrant contact by letter, facsimile or email; and
- e) enter into a new Registrant Agreement for the remaining term of the domain name licence period, or for a new 2 year licence period where the transfer is combined with renewal.

- 4.2 The gaining registrar must not provide the means for a registrant, or a reseller acting on behalf of a registrant, to automatically initiate a transfer command to the registry (for example, by submitting an online form that sends a transfer command to the registry). The gaining registrar must satisfy the requirements listed in paragraph 4.1 before initiating the transfer command to the registry.
- 4.3 The gaining registrar must keep full records of the transfer for inspection by auDA on demand, including copies of the written request for transfer, the standard transfer confirmation message and the affirmative response from the registrant contact.
- 4.4 Transfers that have been properly authorised and processed according to the requirements of this policy and any procedural requirements of the registry, will proceed 2 days after initiation by the gaining registrar (unless the transfer is accepted earlier by the losing registrar).

5. RIGHTS OF THE LOSING REGISTRAR

- 5.1 The registry will notify the losing registrar that a transfer has been initiated. The losing registrar may send a standard transfer audit message (see definition in paragraph 2.1) to the registrant in order to confirm that the transfer is properly authorised. This action will not affect the timeframe referred to in paragraph 4.4.
- 5.2 If the losing registrar sends a standard transfer audit message, it must send the message once only, and within 2 days of receiving the transfer notification from the registry. The losing registrar must not attempt to delay or prevent the transfer. If the registrant does not respond to the standard transfer audit message, the losing registrar must not persist in efforts to obtain a response to the message.
- 5.3 If a losing registrar receives a response from the registrant that the transfer has not been authorised, the losing registrar may lodge a complaint with auDA. The act of lodging a complaint with auDA will not stop the transfer from taking effect, unless auDA is of the view that to allow the transfer to proceed would cause harm to the registrant. Causing harm to the losing registrar's business is not sufficient reason to stop the transfer.
- 5.4 If auDA determines that the transfer has not been authorised by the registrant in accordance with this policy, auDA may:
 - a) allow the losing registrar to initiate a transfer back (using the procedure outlined in paragraph 4.1); or
 - b) direct the registry to reverse the transfer.

Circumstances under which either of these actions might occur include where the gaining registrar, or an appointed reseller of the gaining registrar, has breached the terms and conditions of the Registrar Agreement or the Code of Practice in order to secure the transfer.

6. TRANSFER FEES

- 6.1 The losing registrar must not impose a transfer fee on the registrant, or any fee that could reasonably be construed as a transfer fee.
- 6.2 The gaining registrar must not impose a transfer fee on the registrant, or any fee that could reasonably be construed as a transfer fee. If the gaining registrar chooses to bundle the transfer with other service offerings, then the gaining registrar must advise the registrant that the transfer is free of charge.
- 6.3 If the transfer takes place within the 90 day renewal period, and the registrant chooses to renew their domain name at the same time as transferring it to the gaining registrar, then the gaining registrar may charge a renewal fee. If the transfer takes place outside the 90 day renewal period, the gaining registrar must

advise the registrant that the domain name cannot be renewed until 90 days before expiry.

7. BULK TRANSFERS BY RESELLERS

- 7.1 Where a reseller of one registrar decides to transfer their business to another registrar, the reseller must follow the procedure outlined in paragraph 4.1 in respect of each registered domain name under their management. The reason for this is that each registrant has an existing domain name licence agreement with the losing registrar, and this agreement cannot be reassigned to the gaining registrar. Each registrant must enter into a new domain name licence agreement with the gaining registrar.

8. TRANSFERS CAUSED BY TERMINATION OF REGISTRAR ACCREDITATION

- 8.1 Where a registrar has its accreditation terminated by auDA, its domain name records will be transferred immediately to auDA (ie. auDA will be listed as the registrar of record in the registry database).
- 8.2 auDA will notify the affected registrants that they must transfer their domain name to another registrar by following the procedure outlined in paragraph 4.1.

8. REVIEW OF POLICY

- 8.1 auDA is mindful that this policy has a direct impact on the competitiveness and efficiency of the domain name industry in Australia. auDA will hold a public review of this policy 6 months after implementation, to ensure that it is meeting its stated objectives.

SCHEDULE A

STANDARD TRANSFER CONFIRMATION MESSAGE

Under paragraph 4.1 of the policy, the gaining registrar must send a standard transfer confirmation message to the person who has requested the transfer and to the registrant contact listed in the database (if different).

The purpose of the message is to safeguard both the registrant and the gaining registrar by confirming that:

- a) the transfer request is properly authorised; and
- b) the registrant has been informed of the material terms and conditions of the transfer.

The message must contain the text below.

DOMAIN NAME TRANSFER - REQUEST FOR CONFIRMATION

Attention: <insert registrant contact name>

Re: Transfer of <insert domain name>

The current registrar of record for this domain name is <insert name of losing registrar>

We have received a request from <insert name of person requesting transfer> for us to become the new registrar of record.

You have received this message because you are listed as the registrant contact for this domain name in the WHOIS database.

Please read the following important information about transferring your domain name:

- You must agree to enter into a new Registrant Agreement with us. You can review the full terms and conditions of the Agreement at <insert URL>
- Once you have entered into the Agreement, the transfer will take place within 2 calendar days.
- The transfer will not change the expiry date of your domain name, which is <insert expiry date>.

If you wish to proceed with the transfer, please contact us <insert gaining registrar contact details> with the following message:

"I confirm that I have read the Domain Name Transfer - Request for Confirmation Message.

I confirm that I wish to proceed with the transfer of <insert domain name> from <insert name of losing registrar> to <insert name of gaining registrar>."

Please note that all registrars must comply with the .au Domain Name Suppliers' Code of Practice (<http://www.ada.org.au/docs/ada-2002-26.txt>) and auDA's transfers policy (<http://www.ada.org.au/docs/ada-2003-03.txt>).

SCHEDULE B

STANDARD TRANSFER AUDIT MESSAGE

Under paragraph 5.1 of the policy, the losing registrar may send a standard transfer audit message to the registrant contact.

The message must contain the text below.

DOMAIN NAME TRANSFER

Attention: <insert registrant contact name>

Re: Transfer of <insert domain name>

We are the current registrar of record for this domain name.

We received notification on <insert date of notification> that you have requested a transfer to <insert name of gaining registrar>. This means that <insert name of gaining registrar> will become the new registrar of record for your domain name on <add 2 days to date of notification>.

If you have authorised this transfer, you are under no obligation to respond to this message.

If you did not authorise this transfer, please contact us <insert losing registrar contact details>.

Please note that all registrars must comply with the .au Domain Name Suppliers' Code of Practice (<http://www.ada.org.au/docs/ada-2002-26.txt>) and aDA's transfers policy (<http://www.ada.org.au/docs/ada-2003-03.txt>).