

TRANSFERS (CHANGE OF REGISTRAR) POLICY - REVIEW, JANUARY 2003

auDA's Response to Public Comments

auDA received over 25 submissions during January/February 2003. Most focused on two areas of the policy:

1. Requiring email confirmation from the registrant before initiating a transfer.
2. Requiring the registrant to renew their licence when they transfer.

auDA has also considered comments in relation to the right of losing registrars to audit, dispute and undo a transfer.

1. Requiring email confirmation from the registrant before initiating a transfer

Most submissions contended that the domain name password is sufficient authorisation for a transfer request. Several also cited difficulties in obtaining confirmation from the registrant where the email address is invalid.

auDA response:

auDA does not agree with assertions that the domain name password alone entitles a reseller or agent to authorise a transfer on behalf of the registrant. auDA is concerned that the majority of registrants:

- do not understand the significance of their domain name password
- do not understand that their domain name licence is independent from associated services like hosting
- are easily susceptible to deceptive practices (eg. misleading renewal notices).

Whilst auDA acknowledges that a registrant may choose to enter into a "management" agreement with a reseller or agent, we are inclined to agree with comments that a registrant who gives their password to a reseller or other agent for this purpose is not necessarily made aware that it could result in their domain name being transferred to another registrar.

Therefore, auDA does not consider it appropriate at this time to rely solely on the domain name password as sufficient authorisation for a transfer. In this regard we are also persuaded by the experience of ICANN registrars, who have recently agreed to implement the requirement for registrant confirmation to address serious problems in the gTLD market. Refer to the ICANN Transfers Task Force report at <http://www.dnso.org/dnso/notes/20030212.NCTransferTF-gaining-and-losing-registrars.html>

In auDA's view, if the registrant has initiated the transfer themselves, or knowingly authorised the transfer through their reseller or other agent, then it should be a straightforward exercise for the gaining registrar to obtain their confirmation.

However, we acknowledge that registrant email addresses are often invalid, which can make the process time-consuming and cumbersome for both the gaining registrar and the registrant. The revised policy would permit the gaining registrar to use other means of obtaining registrant confirmation if email is not available (eg. fax, postal).

2. Requiring the registrant to renew their licence when they transfer

The majority of submissions argued that this requirement constitutes a penalty on the registrant, and provides a significant disincentive to transfer.

One proposal was to extend the window of transfer from the current 90 days to 18 months, thereby allowing the registrant to hold a licence for maximum 3.5 years.

auDA response:

auDA policy is that the licence period in all open 2LDs is fixed at 2 years. In the case of asn.au, org.au and id.au, the 2 year licence period has been recently imposed and auDA has made efforts to educate all registrants that they must renew their licence every 2 years.

auDA believes that to introduce a variable licence period (eg. between 2 and 3.5 years) at this time would lead to confusion in the marketplace and would counteract the positive effect of the education campaign.

However, we agree that loss of remaining licence period has a deterrent effect on transfers.

Therefore, auDA proposes to extend the current arrangements for "free" net.au and org.au transfers away from auDA, to apply to all domain names. The revised policy would allow a registrant to transfer any domain name to another registrar at any time with no change to the expiry date, and at no charge. Neither the losing registrar nor the gaining registrar is permitted to charge a transfer fee.

If the transfer occurs within the 90 day renewal period then the registrant may choose to do a combined transfer/renewal. However, this is not a requirement; for example, the registrant may choose to transfer 60 days prior to the expiry date, but wait another 30 days before renewing the domain.

auDA anticipates that the principal beneficiaries of this change would be:

- resellers who wish to transfer their business from one registrar to another registrar
- registrants who wish to consolidate multiple domain names with one registrar.

3. Rights of losing registrar

One submission called on auDA to implement clear procedures for losing registrars to audit, dispute and undo unauthorised or non-compliant transfers.

auDA response:

The current policy permits the losing registrar to contact the registrant in order to confirm that the transfer is properly authorised. auDA does not consider that the losing registrar should be positively required to confirm all transfers. In our view it is up to the losing registrar to decide whether or not they wish to conduct transfer audits.

However, if a losing registrar does wish to conduct transfer audits, the revised policy provides for a standardised message to be sent to the registrant. This is to ensure that the losing registrar does not use the opportunity to delay or prevent a transfer which has in fact been properly authorised.

auDA does not consider it necessary to implement a special dispute resolution mechanism for transfers at this time. Complaints about unauthorised transfers are already accommodated within auDA's existing complaints-handling policy. We have investigated a small number of these complaints since 1 July 2002, and in one case we directed AusRegistry to reverse the transfer.

Similarly, we do not believe it necessary to provide a transfer undo command at the registry. Given the very low level of complaints, the current process (ie. performed manually by AusRegistry at the direction of auDA) is sufficient at this time.

Conclusion

In summary, the revised policy would:

- retain the requirement for registrant confirmation, but permits other forms of contact where the registrant email address is invalid
- replace the transfer and renew requirement with a "free" transfer
- standardise the way in which a losing registrar can contact the registrant.

Whilst auDA has a responsibility to promote competition and facilitate efficient practices in the industry, we must also ensure that registrant rights are appropriately safeguarded.

Given the immaturity of the new regime and the present state of the industry, which is still attempting to redeem its reputation after the misleading practices of some rogue operators, auDA believes that a cautious approach is warranted and the consumer safeguard aspect should take precedence for now.

We have undertaken to review the policy again in another 6 months time (ie. after 1 full year of the new regime).