TRANSFERS (CHANGE OF REGISTRAR OF RECORD) POLICY

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 <u>not</u> result in a change to the registrar of record in the registry database, and therefore are <u>not</u> 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 <u>to which</u> the registrant transfers their domain name;

b) "losing registrar" means the registrar <u>from which</u> 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); and

e) "standard transfer confirmation email" means an email containing the text approved by auDA at Schedule A.

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 transfer their domain name at any time during the domain name 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 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 and other undesirable practices. To minimise the risk of similar problems occurring in the .au domain, there are two key requirements for transfer:

a) the gaining registrar must obtain a valid domain name password and confirm the transfer request with the registrant contact, prior to initiating a transfer; and

b) the registrant must renew their domain name licence when the transfer takes place (ie. the registrant receives a new 2 year domain name licence from the gaining registrar, which takes effect from the date of transfer).

3.3 Registrants are not entitled to be reimbursed by the losing registrar for the unused portion of their domain name licence. If a registrant wishes to make a complaint about the losing registrar, they may do so through the complaints handling channels set out in auDA's Consumer Safeguards Policy.

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 email (see definition in paragraph 2.1) to the person who has requested the transfer <u>and</u> to the registrant contact listed in the database (if different);

   d) receive an affirmative response from the registrant contact; and

   e) check that the registrant still meets the relevant policy rules, and enter into a new 2 year domain name licence agreement.

4.2   If the person who has requested the transfer is not the registrant contact, the person should arrange to update the registrant contact details in the registry database before making the request for transfer.

4.3   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.

4.4   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 email and the affirmative response from the registrant contact.

4.5   The registry will notify the losing registrar that a transfer has been initiated. The losing registrar may contact the registrant in order to confirm that the transfer is properly authorised. However, the losing registrar must not take any action to delay or prevent the transfer.

4.6   Transfers that have been properly authorised and processed according to the requirements of this policy and any procedural requirements of the registry, will proceed within 2 days of initiation.

5. OBJECTIONS TO TRANSFER

5.1   If a losing registrar wishes to object to a transfer, they may notify auDA of their objection at any time, either before or after the transfer takes effect.

5.2   Notifying an objection to auDA will <u>not</u> 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.

5.3   If auDA decides that the losing registrar's objection has substance, auDA may direct the registry to reverse the transfer. Circumstances under which a transfer might be reversed include where the gaining registrar has breached the terms and conditions of the Registrar Agreement or the Code of Practice.

6. BULK TRANSFERS BY RESELLERS

6.1   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.

7. EXCEPTIONAL TRANSFERS

7.1   In exceptional circumstances, auDA may determine that the procedure outlined in paragraph 4.1 does not have to be followed. For example, in the case where a registrar goes out of business or its accreditation is terminated, auDA may determine that its registrants can transfer to another registrar without having to renew their domain name licence.

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 EMAIL

Under paragraph 4.1 of the policy, the gaining registrar must send an email to the person who has requested the transfer <u>and</u> to the registrant contact listed in the database (if different).

The purpose of the email 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 email 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 email 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:

- Your domain name licence will be renewed for a 2 year period from the date the transfer takes effect.
- 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.

If you wish to proceed with the transfer, please send an email to <insert email address> with the following message:

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

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>."