

Initial Report on the Post-Expiration Domain Name Recovery Policy Development Process

STATUS OF THIS DOCUMENT

This is the Initial Report on the Post-Expiration Domain Name Recovery PDP, prepared by ICANN staff for submission to the GNSO Council on 31 May 2010. A Final Report will be prepared following public comment.

SUMMARY

This report is submitted to the GNSO Council and posted for public comment as a required step in this GNSO Policy Development Process on Post-Expiration Domain Name Recovery.

Table of Content

GLOSSARY	3
1. EXECUTIVE SUMMARY	5
2. OBJECTIVE AND NEXT STEPS	9
3. BACKGROUND	10
4. APPROACH TAKEN BY THE WORKING GROUP	16
5. REGISTRAR SURVEY	19
6. INFORMATION FROM ICANN COMPLIANCE STAFF	25
7. DELIBERATIONS OF THE WORKING GROUP	29
8. PEDNR WG SURVEY & POTENTIAL OPTIONS FOR CONSIDERATION	33
9. STAKEHOLDER GROUP/CONSTITUENCY STATEMENTS & PUBLIC COMMENT PERIOD	55
10. CONCLUSIONS AND NEXT STEPS	60
ANNEX A – PEDNR - PDP WORKING GROUP CHARTER	61
ANNEX B - CONSTITUENCY STATEMENT TEMPLATE	64

Glossary

Auto-Renew Grace Period

Auto-Renew Grace Period is a specified number of calendar days following an auto-renewal. An auto-renewal occurs if a domain name registration is not renewed by a Registrar (on behalf of a Reseller or Registrant) by the expiration date; in this circumstance the registration will be automatically renewed by the registry the first day after the expiration date. The WHOIS record is updated to show expiration date one-year in the future even though the Registrant has not actually paid for the renewal, and therefore may not be legally entitled to the additional registration year. In most cases the registrar's account is assessed the registry renewal fee at that time, but some registries may not assess a fee on the registrar until after the auto-renew grace period ends. The current length of the Auto-Renew Grace Period is 45 days, and is never terminated early by a registry, but a registrar can opt to delete the domain name prior to then.

Many registrars and resellers optionally offer an auto-renewal service where the registrant's account or credit card is charged (without any action taken by the registrant) to renew the domain close to or at the expiration date. Because this optional offering has a similar name to the (registry) auto-renewal policy, a registrant is sometimes confused and a reader of this document must be careful to keep these two unrelated topics segregated.

EDDP - Expired Domain Deletion Policy

The EDDP is an ICANN consensus policy that revised the domain registration expiration provisions in ICANN's Registrar Accreditation Agreement in December 2004. For further details, please see <http://www.icann.org/en/registrars/eddp.htm>.

RAE - Registrant At the time of Expiration

In order to facilitate discussions and nomenclature, the PEDNR WG introduced the term 'Registrant At the time of Expiration' (RAE) to distinguish between the person or entity that is listed in WHOIS as the Registered Name Holder at the time of expiration and the person or entity that is listed in WHOIS as the Registered Name Holder following expiration, which might be different following expiration. Many registration agreements allow the Registrar to alter the WHOIS data to indicate

that the Registrar itself, an affiliate, or a third party is the registrant at this time, but the prevalence of this practice was not studied.

RGP - Redemption Grace Period

The Redemption Grace Period (RGP) is an optional service offered by some registries and registrars. . Although the implementation details may vary in different gTLDs, when a deleted domain name enters the RGP, it will not be included in the root-tld zone file (i.e., the name servers for the domain will not be listed, thus the domain name will not resolve—no web traffic or e-mails will reach the domain or any destination). The domain name will be so identified in WHOIS and held in the RGP for 30 calendar days or until restored. At the conclusion of the RGP (and a brief pending-delete period), the domain name will be returned to the pool of domain names available for registration. All non-sponsored gTLD registries apart from .pro and .name offer the RGP. Even where offered by a registry, registrars are not required to provide the redemption service to registrants.

Registrar

With respect to gTLDs, a Registrar is an entity that has entered into the [Registrar Accreditation Agreement \(RAA\)](#) with ICANN and can therefore register domains on behalf of gTLDs (“Registrar Services”).

Reseller

A Reseller is an entity that contracts with a Registrar to provide Registrar Services. A Reseller is required to honour the same term as Registrars related to registration agreement terms and notices that must be provided.

1. Executive Summary

1.1 Background

- At the ICANN Meeting in Cairo in November 2008, the At-Large Advisory Committee (ALAC), voted to request an Issues Report on the subject of registrants being able to recover domain names after their formal expiration date.
- The [ALAC request](#) was submitted to ICANN policy staff and the GNSO Council on 20 November 2008.
- The [Issues Report on Post-Expiration Domain Name Recovery](#) was submitted to the GNSO Council on 5 December 2008.
- The GNSO Council [initiated a PDP](#) on 7 May 2009 and tasked a Working Group to answer the following charter questions:
 1. Whether adequate opportunity exists for registrants to redeem their expired domain names;
 2. Whether expiration-related provisions in typical registration agreements are clear and conspicuous enough;
 3. Whether adequate notice exists to alert registrants of upcoming expirations;
 4. Whether additional measures need to be implemented to indicate that once a domain name enters the Auto-Renew Grace Period, it has expired (e.g., hold status, a notice on the site with a link to information on how to renew, or other options to be determined);
 5. Whether to allow the transfer of a domain name during the RGP.
- The Post-Expiration Domain Name Recovery (PEDNR) PDP Working Group started its deliberations in July 2009.

1.3 Issue Background

- Section 3.2 provides an overview of the current pre- and post-expiration process as described in the Post-Expiration Domain Name Recovery Issues Report.

1.3 Deliberations of the PEDNR WG

- The PEDNR Working Group started its deliberations in July 2009 where it was decided to continue the work primarily through first bi-weekly and then weekly conference calls, in addition to e-mail exchanges.
- Section 7 provides an overview of the deliberations of the Working Group conducted both by conference call as well as e-mail threads. It should be noted that the Working Group will not make a final decision on which solution(s), if any, to recommend to the GNSO Council before a thorough review of the comments received during the public comment period on the Initial Report.
- No evidence establishing the prevalence of unintentional domain name loss was presented, despite requests for this research by some members of the WG.
- As instructed in its charter, the PEDNR WG started its deliberations by reviewing current registrar practices regarding domain name expiration, renewal, and post-expiration recovery. In order to gather further information, it was decided to conduct a registrar survey. Section 5 provides an overview of the main questions and outcomes of the survey.
- The PEDNR WG Charter instructs the Working Group to ‘pursue the availability of further information from ICANN Compliance Staff to understand how current RAA provisions and consensus policies regarding deletion, auto-renewal, and recovery of domain names following expiration are enforced’. To facilitate this process, ICANN Compliance Staff has participated actively in the deliberations of the Working Group and has provided the information outlined in section 6 on complaints received and Expired Domain Deletion Policy Audits.

1.4 Potential options for consideration

- In order to assess the views of the WG members and determine where there might be agreement or consensus on a possible approach forward, a survey was conducted amongst the WG membership. Based on the initial results, a drafting team (a subset of the WG) was convened to refine the survey, including a selection of possible remedies. Section 8 describes the refined survey, the options considered, and the poll results.
- The WG is encouraging the ICANN Community to provide input on the different questions and options outlined in this section so that these can be taken into account during the second phase

of the PDP during which the WG hopes to reach consensus on a proposed way forward for each of the charter questions.

- Factoring in the outcomes of the survey, the WG will formulate a set of recommendations for consideration by the GNSO.
- The following questions were addressed in the survey (for further details and context, please see section 8).
- **Overarching Issues**
 1. Should the RAE have the ability to recover his/her domain name registration following expiration for a certain amount of time? [Charter Question 1]
 2. What should this minimum timeframe be during which the RAE has the ability to recover the domain name registration? [Charter Question 1]
- **Period Prior to Expiration**
 3. The current provisions in the RAA only make reference of a second notice – “3.7.5 At the conclusion of the registration period, failure by or on behalf of the Registered Name Holder to consent that the registration be renewed within the time specified in a second notice or reminder shall, in the absence of extenuating circumstances, result in cancellation of the registration by the end of the auto-renew grace period (although Registrar may choose to cancel the name earlier).” Is this provision sufficiently clear? [Charter Question 3]
 4. Should further details be provided on when these notices are sent? If yes, what further details would facilitate transparency and information, while at the same time not restricting registrars from taking additional measures to alert registrants? [Charter Question 3]
 5. Should further details be provided on how these notices are sent? If yes, what further details would facilitate transparency and communications, while at the same time not restricting registrars from taking additional measures to alert registrants? [Charter Question 3]
 6. Should additional measures be implemented to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders? If ‘yes’, what kind of measures should be explored? [Charter Question 3]
- **Post-Expiration**

7. Should WHOIS status messages related to expiration be clarified / changed to avoid confusion over when a domain name registration expires / has been renewed by the registry? [Charter Question 3]
 8. Are notices post-expiration required? [Charter Question 3]
 9. How should an HTTP (port 80) request using the expired domain name resolve? [Charter Question 4]
 10. How should e-mail directed at an address within the expired domain behave after expiration [Charter Question 4]
 11. What should happen with non-web, non-e-mail services post expiration (i.e. should ICANN specify what happens to ALL IP ports, or just those specific to web and e-mail services)? [Charter Question 4]
 12. Should a RAE have the ability to request an Inter-Registrar Transfer after expiration?
- **Contractual Conditions**
13. Are you of the opinion that registrants understand and are able to find renewal and expiration related information easily? How can such understanding be improved? [Charter Question 2]
 14. Should the fee to be charged for renewal of a domain name after expiration be explicitly stated?
 15. Should information on where to find the cost for recovery after expiration be in the registration agreement? [Charter Question 1]
- **Redemption Grace Period**
16. Should the Redemption Grace Period be adopted as a consensus policy for gTLD Registries? [Charter Question 1]
 17. Should registrars be required to offer the Redemption Grace Policy for registries that offer it? [Charter Question 1]
 18. Should a transfer of a domain name during the RGP be allowed? [Charter Question 5]

2. Objective and Next Steps

This Initial Report on the Post-Expiration Domain Name Recovery PDP is prepared as required by the GNSO Policy Development Process as stated in the ICANN Bylaws, Annex A (see <http://www.icann.org/general/bylaws.htm#AnnexA>). The Initial Report will be posted for public comment for 20 days. The comments received will be analyzed and used in further WG deliberations and during redrafting of the Initial Report into a Final Report to be considered by the GNSO Council for further action.

3. Background

3.1 Process background

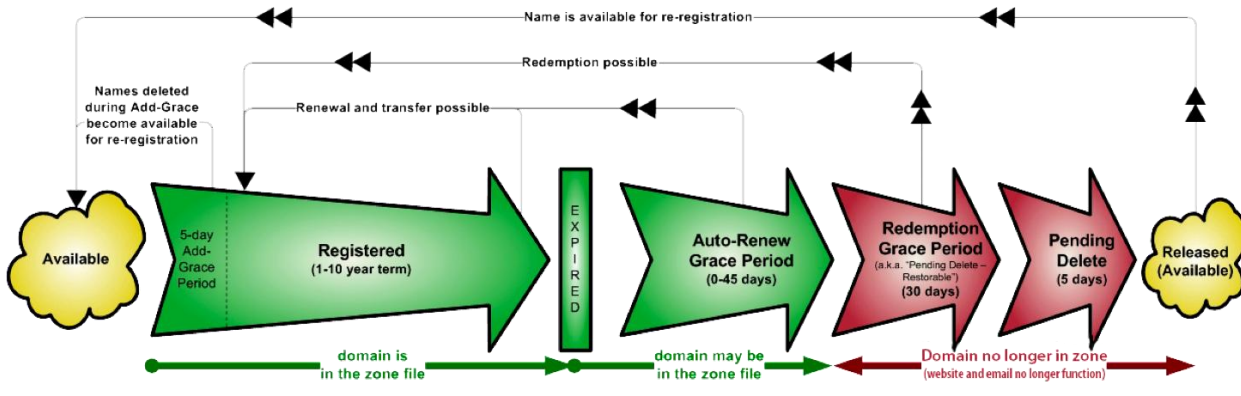
- At the ICANN Meeting in Cairo in November 2008, the At-Large Advisory Committee (ALAC), voted to request an Issues Report on the subject of registrants being able to recover domain names after their formal expiration date. Some in the At-Large community are of the opinion that there isn't always adequate notice to registrants whose domain names are expiring. The ALAC request noted that issues may include a lack of consistent notification standards, undelivered expiration notification emails, or notification rights inadvertently signed away during initial domain name registration. Data on how many registrants may be affected by these issues were not presented. The [ALAC request](#) was submitted to the GNSO Council on 20 November 2008.
- The [Issues Report on Post-Expiration Domain Name Recovery](#) was submitted to the GNSO Council on 5 December 2008.
- In the GNSO Council meeting of 18 December, a number of [questions](#) were raised in relation to the issues report to which ICANN staff provided [responses](#) on 15 January 2009.
- The GNSO Council reviewed these responses during its meeting on 29 January and agreed to form a Post-Expiration Domain Name Recovery drafting team to consider the appropriate form of policy development action.
- The PEDNR drafting team met on a number of occasions to discuss and review the issues documented in the Issues Report. The drafting team concluded that although some further information gathering may be needed, it should be done under the auspices of a Policy Development Process (PDP).
- As a result, the GNSO Council [initiated a PDP](#) on 7 May 2009 and instructed the drafting team to develop a charter. The GNSO Council [adopted](#) the charter (see Annex I) proposed by the drafting team on 24 June 2009 in which a Working Group is instructed to answer the following questions:
 1. Whether adequate opportunity exists for registrants to redeem their expired domain names;
 2. Whether expiration-related provisions in typical registration agreements are clear and conspicuous enough;

3. Whether adequate notice exists to alert registrants of upcoming expirations;
 4. Whether additional measures need to be implemented to indicate that once a domain name enters the Auto-Renew Grace Period, it has expired (e.g., hold status, a notice on the site with a link to information on how to renew, or other options to be determined);
 5. Whether to allow the transfer of a domain name during the RGP..
- Following the adoption of the charter, a [call for volunteers](#) was launched and a first [workshop](#) was organised at the ICANN meeting in Sydney in June 2009. The Working Group held its first official meeting on 28 July 2009.

3.2 Issue Background – Summary of Current Process (excerpt¹ from [Issues Report](#))

- In order to understand the current process better and identify potential issues that might exist for post-expiry domain recovery, an overview of the current life cycle of a gTLD Domain Name (see figure 1), and more specifically the post-expiration grace periods, are described in this section.
- A number of elements described below are part of the [Expired Domain Deletion Policy](#) (EDDP, see annex II) which is a consensus policy that revised the domain registration expiration provisions in ICANN’s Registrar Accreditation Agreement in December 2004.

Figure 1 – Life Cycle of a gTLD Domain Name



Prior to Expiration

- Under the terms of the Registrar Accreditation Agreement (RAA) as modified by the EDDP, a

¹ Some minor corrections and clarifications have been made to the text.
Initial Report on the PEDNR PDP

Registrar 'shall provide notice to each new registrant describing the details of their deletion and auto-renewal policy', including any changes made to this policy during the term of the registration agreement.

- The RAA furthermore specifies that the registrar should clearly display on its web-site 'details of Registrar's deletion and auto-renewal policies' and 'state, both at the time of registration and in a clear place on its website, any fee charged for the recovery of a domain name during the Redemption Grace Period'.
- The Registrar is required to send at least two notices or reminders to the registrant to alert the registrant that their domain name is about to expire and what needs to be done in order to renew it. In practice, most registrars will send more than two notices to the registrant.
- Some registrars provide an optional automatic renewal service to registrants, by which the domain name gets automatically renewed prior to expiration.

Auto-Renew Grace Period

- The Auto-Renew Grace Period is a specified number of calendar days following an auto-renewal. An auto-renewal occurs if a domain name registration is not renewed by the expiration date; in this circumstance the registration will be automatically renewed by the registry the first day after the expiration date. Often the registrar's account is assessed the registry renewal fee at that time, though some registries may not assess a fee on the registrar until after the auto-renew grace period ends. The current maximum length of the Auto-Renew Grace Period is 45 days, but a registrar can opt to delete the domain name prior to then.
- During the Auto-Renew Grace Period, a domain name might resolve normally, stop resolving or resolve to a registrar-designated IP address which hosts a parking, "under construction" or other temporary page. In the latter case, the registrant will likely have agreed to this option at the time of initial registration as one of the provisions of the registration agreement. A review of the registration agreements of the [top 10 domain registrars](#) covering over 66% of domain names, shows that seven registration agreements contain such provisions, one registration agreement does not have a provision in place but in the FAQ it is mentioned that the domain name is parked following expiration and two registration agreements do not contain such a provision.
- If a domain is deleted within the Auto-Renew Grace Period and the Registry has already assessed a renewal fee on the Registrar, the sponsoring Registrar at the time of the deletion will

receive a credit from the registry of the renewal fee. The domain immediately goes into the Redemption Grace Period (see next section).

- A domain can be renewed within the Auto-Renew Grace Period. The account of the sponsoring Registrar at the time of the additional extension will be charged by the registry for the additional number of years the registration is extended.
- If a domain is transferred within the Auto-Renew Grace Period, the losing Registrar is credited with the registry renewal fee and the year added by the Auto-Renew operation is cancelled. The expiration date of the domain is extended by one year up to a total maximum of ten and the gaining Registrar is charged by the registry for that additional year.
- There is no obligation in the RAA or EDDP for the Registrar to return the domain name to the original registrant during the Auto-Renew Grace Period, should the registrant decide it would like to renew the domain name. However, registrars do have the option to offer this possibility. The conditions for renewal are normally outlined in the auto-renewal policy of the respective registrar. In practice, most registrars have a renewal policy in place, which allow the registrant to renew a domain name after the expiration date.
- If the domain name is deleted, it automatically enters the RGP. It should be noted though, and this is one of the concerns expressed by ALAC; some domain names never reach the RGP because their registrations are sold, auctioned or transferred to another party which, the ALAC asserts, cannot be prevented by the original registrant. Many registration agreements provide for the right of renewal by the registrar and transfer of ownership to the registrar through a subsidiary or affiliate or a third party in case the original registrant does not renew the domain name. In practice, registrars may offer the possibility for the original registrant to renew the domain name registration as part of their renewal policy and/or share in the profits of a sale or auction of the domain name.
- Rob Hall, a registrar, in a 2007 tutorial offered at the ICANN public meeting in Lisbon on '[How the Marketplace for Expiring Names Has Changed](#)', noted that in his opinion 'if the domain has any value over \$6, they're no longer entering the redemption grace period', but the domain name is kept by the registrar. As a result, 'the individual registrars are in fact becoming the de facto registry for that domain name. The only place you can get it is at that registrar'. The "value" of the domain name may be due to its semantic value (such as "automobiles.com") or because of the traffic that the domain receives which can be monetized using pay-per-click

content.

- Other registrars on the WG challenged these claims, however, by pointing out that they expend significant resources in the acquisition and retention of customers, rather than domain names. The benefits received by not allowing a registrant to renew a high-value domain name would be significantly offset by the value of the lost account. Such a practice is therefore economically unsustainable and likely not a viable business practice. Furthermore, the existence and variety of back-order services, which monitor deleting registrations on behalf of their customers, would seem to contradict Mr. Hall's claim that only names valued less than \$6 reach the RGP. Finally, it should be pointed out that there is not universally accepted standard for domain name valuation. Name values are entirely subjective.
- During the Auto-Renew Grace Period, a domain name can be transferred to another registrar as outlined in the ['Policy on Transfer of Registrations between Registrars'](#).

Redemption Grace Period (RGP)

- Based on the perception of ICANN legal Counsel and the dominant registry that there were significant problems and complaints relating, in 2002 ICANN developed the Redemption Grace Period (RGP) for unsponsored TLDs to prevent unintentional deletions. It should be noted that the RGP was not established by an ICANN consensus policy and it is therefore at the sole discretion of the registry and registrar whether to offer or not to offer the Redemption Grace Period service. In practice it is believed that most registrars offer this service.
- The RGP is a 30-day registry "hold" period for all domain names deleted by registrars. This hold period is designed to allow registrars the ability to "restore" names that were deleted accidentally or without the intent of the registrant.
- During this 30-day period, the deleted name will be placed on REGISTRY-HOLD, which will cause the name to be removed from the zone. The domain name, therefore, will not function/resolve. This feature is intended to ensure notice to the registrant that the name is subject to deletion at the end of the Redemption Grace Period, even if the contact data the registrar has for the registrant is no longer accurate.
- During the Redemption Grace Period, the original registrant can redeem its registrations through the registrar. Registrars can redeem the name in the registry for the original registrant by paying renewal fees, plus a service charge, to the registry operator. Any party requesting

redemption is required to prove its identity as the original registrant of the name.

- The RAA states that the registrar must have 'both at the time of registration and in a clear place on its website, any fee charged for the recovery of a domain name during the Redemption Grace Period'.
- It is currently not possible to transfer a domain name in RGP to another registrar; the domain name can only be recovered by the existing registrar.

Pending Delete

- A domain name is placed in PENDINGDELETE status if it has not been restored during the Redemption Grace Period. A domain name cannot be recovered or transferred by anyone at this point. A domain name is deleted from the registry database a specified number of calendar days after it is placed in PENDINGDELETE status. The current length of this Pending Delete Period is five calendar days. Once the domain name has been deleted from the registry database, it becomes available for registration by a new registrant.

4. Approach taken by the Working Group

The Post-Expiration Domain Name Recovery Working Group started its deliberations on 28 July 2009. It was decided to continue the work primarily through weekly conference calls and e-mail exchanges. In addition, public meetings were organised in conjunction with ICANN meetings in Sydney and Seoul. The Working Group agreed to start working on the different charter questions in parallel to the preparation of constituency statements and the public comment period on this topic. In addition, the Working Group decided to conduct a Registrar Survey in order to Review current registrar practices regarding domain name expiration, renewal, and post-expiration recovery to help inform the deliberations. In order to facilitate the work of the constituencies, a template was developed for responses (see Annex B).

4.1 Members of the PEDNR Working Group

The members of the Working group are:

Affiliation	Name	Meetings Attended (Total 28)	Number of surveys completed
Registrar Stakeholder Group			
	James Bladel	21	2
	Graham Chynoweth	1	1
	Mason Cole	19	2
	Paul Diaz	24	2
	Jeff Eckhaus	22	2
	Sergey Gorbunov ²	10	0
	Rob Hall	0	0
	Tatyana Khramtsova	25	1

² Resigned from the WG on 14 December 2009
Initial Report on the PEDNR PDP
Author: Marika Konings

Affiliation	Name	Meetings Attended (Total 28)	Number of surveys completed
	Mark Klein	1	0
	Helen Laverty	12	1
	Michele Neylon	25	2
	Tim Ruiz (Council Liaison)	8	0
	Matt Serlin	4	2
Registry Stakeholder Group			
	Steve Holsten ³	0	0
	Michael Young	7	1
Commercial and Business Users Constituency			
	Berry Cobb	25	2
	Phil Corwin	9	0
	Mike O'Connor	21	2
	Michael Palage ⁴	13	0
	Mike Rodenbaugh	0	2
Intellectual Property Constituency			
	Alaine Doolan	16	0
	J. Scott Evans	2	0
	Ted Suzuki	18	0
Non-Commercial User Constituency / Non-Commercial Stakeholder Group			

³ Resigned from the WG on 14 May 2009

⁴ Resigned from the WG on 18 March 2010

Affiliation	Name	Meetings Attended (Total 28)	Number of surveys completed
	Debra Hughes	2	0
	Divina Meigs	0	0
	Ron Wickersham	24	2
At-Large Advisory Committee / At-Large			
	Garth Bruen	1	0
	Alan Greenberg	27	2
	Dave Kissoondoyal	20	0
	Cheryl Langdon-Orr	28	2
	Glenn McKnight	3	2
	Sivasubramanian Muthusamy	20	2
Governmental Advisory Committee			
	Karim Attoumani	2	0

Note that some members did not participate in WG meetings or teleconferences, but still submitted surveys on the issues under review.

The statements of interest of the Working Group members can be found at <http://gnso.icann.org/issues/post-expiration-recovery/soi-pednr-20july09.html>.

The email archives can be found at <http://forum.icann.org/lists/gnso-pednr-dt/>. The Working Group workspace can be found at <https://st.icann.org/post-expiration-dn-recovery-wg/>.

The attendance sheet can be found [here](#).

5. Registrar Survey

As instructed in its charter, the PEDNR WG started its deliberations by reviewing current registrar practices regarding domain name expiration, renewal, and post-expiration recovery. In order to gather further information, it was decided to conduct a registrar survey. Hereunder is an overview provided of the main questions and outcomes of the survey.

5.1 Methodology

The survey covers 9 registrars out of the top 10 registrars by total domains, which represents approximately 66% of domains registered. ICANN Staff reviewed information publicly available on registrar web sites in a first attempt to respond to the questions. Following that, the registrars in question were contacted to verify the information found as well as to provide input on those questions for which no publicly available information was available. Following this feedback, the survey responses were updated and anonymized. The complete registrar survey, can be found [here](#).

5.2 Findings

- **What is the registrar's practice regarding a domain name at the time of expiration when the registrant is silent regarding its intention to renew a domain name?**

All registrars renew the registration on behalf of the registered name holder following expiration. As a courtesy, the registrant at the time of expiration (RAE) should be able to reclaim its name at least for a certain period of time with most registrars. Many registrars, however, point out in the registration agreement that this is not an obligation but at the sole discretion of the registrar to provide the opportunity to recover the domain name registration. In one instance, if auto-renewal is explicitly switched off by the registrant, the domain name registration will move directly into the Redemption Grace Period (RGP) following expiration.

- **Does the registrar allow the domain name to auto-renew in those registries that employ that policy?**

Yes, this applies to the majority of registrars. The intended scope of the question was related to the Registry:Registrar auto-renewal. This question was also interpreted as asking whether the registrar provides an auto-renewal option to the registrant, by which it e.g. keeps a credit card on file and will automatically attempt to renew the registration before expiration. It was found

that in certain cases this is the default setting and the registrant needs to take affirmative action to switch of such a auto-renewal; in some cases this is an optional service; in one instance, the registrar does not provide an auto-renewal service for its registrants but many of its resellers do provide this feature.

- **When and how are notices of expiration sent to the RAE prior to expiration? If a reseller was involved in the domain transaction, are notices sent by reseller or by registrar?**

Notices are generally sent by email, often to the different email addresses on file (contact handles associated with the domain). Some registrars may notify the RAE via notices to their registrar account (requiring logging on to receive the message). Some registrars provide a detailed calendar of when notices are sent, others do not. One registrar indicates that direct mail notices are also sent to the mailing addresses on record. Those that provide information on when notices are sent provide the following range of when the first notice is sent prior to expiration: 90, 75, 45 and 21 days. Two registrars note that ‘as a convenience to the registrant, and not as a binding commitment’, the registrar may ‘send an email message’, but in practice these registrars send notices to their customers.

- **When and how are notices of expiration sent to the RAE following expiration? If a reseller was involved in the domain transaction, are notices sent by reseller or by registrar?**

Several registrars confirm that notices are also sent following expiration. Those that provided specific details, note that notices are sent from 10 – 21 days after expiration. One registrar does not sent notices following expiration, but the user account does contain an alert that the domain name registration has expired.

- **Does the registrar make substantial changes to any of the underlying WHOIS data associated with the domain name in or around the time of expiration? (Note: changing status of a domain name registration e.g. to ‘pending delete’ and/or changing the expiration date are not considered substantial changes) (yes/no; if yes, when)**

Six registrars note that WHOIS records ‘may’ undergo changes such as replacing the RAE contact information with that of the registrar, although one registrar confirms it actually does not make any substantial changes even though the contract does allow for such changes. Three registrars do not make substantial changes to WHOIS data apart from changing the nameservers.

- **Is the cost to the registrant to recover/renew a domain name post expiration but prior to the imposition of any Registry Redemption Grace Period different to that one charged for renewal**

prior to expiration? If the cost is different, does it vary or is it the same for every domain name at any point in time during the Auto-Renew Grace period? If so, what does this variance depend on (e.g. time of renewal, estimated value of the domain, cost burden of recovery for registrar?)

Five registrars indicate that the RAE may recover the domain name at least for a certain period (in some cases as short as 3 days or as long as 45 days) for the normal renewal fee. In other cases an additional fee may apply, which in certain cases is the same as the fee charged for recovery of the domain name during RGP or may be unspecified.

- **At what point after expiration is the DNS changed so that the domain name no longer resolves to the RAE's web site? Where does it now point to,(e.g. PPC, renewal page)?**

All registrars reserve the right to direct the IP address to a registrar designated page which may include notification or renewal information, in addition to pay-per-click (PPC) advertisements or other promotional information. In some cases, a web site will continue to function following expiration. In one case, the RAE can opt out of the display of a registrar parked page, if he or she indicates so before the expiration of the registration.

- **Does the new page explicitly say that the original registration has expired and how it could be re-claimed?**

In six instances the new page will display information that the registration has expired, information on how to renew the registration or advertise the sale / auction of the registration. In two instances, it does not. This question is not applicable to the registrar that does not operate a renew grace period for the RAE.

- **Based upon the changes made by the registrar upon expiration, what happens if email is sent by a third party (i.e. someone other than the registrar, reseller or registrar) to the email address (e.g. xx@example.com) that uses the expired domain name (e.g. www.example.com)? Does the email bounce, is it still delivered to the RAE on an alternative email address or is it discarded?**

In most cases, the email will bounce and is discarded, unless the DNS is hosted with the registrar and only the A record is changed. This question is not applicable to the registrar that does not operate a renew grace period for the RAE, nor does it apply if the DNS nameservers are hosted by the RAE or a third-party (e.g. hosting provider).

- **If the RAE's contact e-mail used the domain name in question, does the registrar factor this in**

sending out post-expiration reminders? If so, how?

No, for those registrars that sent post-expiration notices, this is not factored in.

- **Are reminders sent from the same address the registrar normally uses for communication with the RAE (a different address might result in the email getting caught in the spam filter)?**

Some note that in cases where a reseller is involved, this might differ as it is up to the reseller to configure this type of communication. Five registrars confirm that all communications come from the same address. One registrar notes that it uses different 'from' addresses to identify the type of communication intended for the RAE.

- **At what point, if any, is the expired domain name made available to others than the RAE (e.g. sale, auction, transfer to registrars or an affiliate's account).**

In most cases, the registrar can in theory renew or transfer the registration to the registrar or a third party immediately upon expiration. However, several registrars specify that in practice this only happens at the end of the renewal grace period provided by the registrar to the RAE. In certain cases, the registration may be put up for auction but only after a certain period of time, e.g. 25 days, 30 days or 35 days have passed following the expiration.

- **If a reseller was involved in the original transaction:**

- **How does the RAE determine whether they are dealing with the reseller or the registrar?**

Many note that the reseller information shows up in the WHOIS database and the reseller serves as the first point of contact for the RAE. Others note that the RAE should be able to tell by the absence of the 'ICANN Accredited Logo' on the website. One registrar notes that it provides a reseller information retrieval tool on its website.

- **If the RAE is dealing with a reseller, how can the RAE identify the affiliated registrar?**

Most note that this information is available through a WHOIS lookup.

- **To recover the expired domain name, can the RAE work with the registrar directly or must it work with reseller?**

Most note that the reseller should be the first point of contact for the RAE, however in the case of escalation (e.g. unresponsiveness of the reseller) the registrar will assist the RAE.

- **What options are available for contacting reseller/registrar post expiration (web form, e-mail, telephone)?**

Most note that all pre-expiration support options (e.g. web, email, telephone) also remain available after expiration. The RAA does not require the availability any specific support

methods.

- **Under what conditions is a domain name deleted (and thus enters the RGP)?**

In most cases, the domain name registration only enters RGP if it has not been renewed by the RAE or transferred to a third party. One registrar allows for the RAE to notify the registrar that he or she does not want the registrar to proceed with a transfer to a third party. In this case the registration is deleted. In one case, if the registration has been canceled or the auto-renewal service is explicitly turned off, the registration will immediately enter RGP.

- **What is the duration of the renewal grace period provided by the registrar to the RAE?**

The renewal grace period, the period following expiration during which the RAE can recover the domain name registration, is generally not guaranteed by registration agreements. The actual period provided by registrars to registrants varies from zero (one registrar), but most provide additional time, offering 30, 35, 40 and 42 days for the RAE to renew following expiration.

- **What is the registrar's practice regarding a domain name at the time of expiration when the registrant gives explicit instructions regarding its intention NOT to renew the domain names? Indicate if same as for "no notice given" or address all of the issues in Question 1.**

Most registrars follow the same procedure as for "no notice given". Only in one instance, if the domain name registration has been explicitly cancelled from the registrar system, it will not be renewed and go straight to RGP.

- **If a registrant specifically requests to delete a domain name prior to its expiration, does the registrar treat it as an expired domain name or is it treated differently?**

Most registrars indicate that the domain name registration is immediately deleted upon request or treated differently from an expired registration. One registrar confirms that it will treat it as an expired registration.

- **Are the terms of the treatment of the domain name registration at the time of expiration contained in the registration agreement or in another document? Please specify the terms if not already done so in question 1 or 2.**

In most cases, the terms are contained in the registration agreement. Some registrars provide additional details or information in FAQs, Help Centre or Deletion / Renewal policies. It is not always obvious where to find the relevant information. In addition, the language in the registration agreements is often too legal to be clear and often not specific (e.g. may/may not, in its sole discretion, no guarantee, can change without notice) although registrar participants

on the WG pointed out the need to preserve legal protections for themselves and their registrant clients by including legally appropriate language in their agreements. In certain cases, the language in registration agreements does not seem to match actual practice, but seems to provide more of a 'safety net', in case the registrar would like to change its practices.

- **If the registrar makes substantial changes to the WHOIS data at the time of expiration is that practice dependent upon whether the registry charges you upon expiration or not (i.e. auto-renew v.s. non-auto-renew) or is the change in underlying WHOIS data the same regardless of the TLD?**

All respondents indicated that this does not have an impact.

- **Does the registrar or affiliated auction service provider provide the RAE the right to remove a name from auction / sales process?**

In four cases, the RAE can remove the domain name registration from the auction / sale by renewing the registration. One registrar confirms that if the RAE has notified the registrar that he/she does not want to proceed with a transfer to the third party, the domain name registration will be deleted. In two cases, the RAE cannot remove or recover the domain name from auction / sale. One registrar notes that once the auction process has commenced it is not customary to remove the name from auction.

- **For those registrars or affiliated auction service provider that provide auction services with the ability of the registrant to renew/re-register a name, what measure of registrants have exercised that right?**

Data are not available.

6. Information from ICANN Compliance Staff

The PEDNR WG Charter instructs the Working Group to ‘pursue the availability of further information from ICANN Compliance Staff to understand how current RAA provisions and consensus policies regarding deletion, auto-renewal, and recovery of domain names following expiration are enforced’. To facilitate this process, ICANN Compliance Staff has participated actively in the deliberations of the Working Group and has provided the information outlined below.

6.1 Complaints received

Compliance looked into the statistics for complaints from the community concerning the transfer of domain names that have expired.

The complaints Compliance receives are largely sent to ICANN via <http://reports.internic.net/cgi/registrars/problem-report.cgi>, which can be accessed on ICANN’s website. From them, Compliance compiles statistics, which also take into account phone calls handled by the front desk at ICANN’s offices in Marina del Rey, CA.

It is important to highlight that the complaints and categories they are filed under are self-reported; Compliance plays a limited role in their classification. More specifically, compliance staff reads a complaint, re-categorizes it (if needed), and then forwards it to the relevant party for resolution. That being said, in some instances the complainant may erroneously categorize his or her concern and may emphasize an actor (registrar), a concept (registrar service), a specific problem (redemption or domain name transfer), etc., and the text accompanying the complaint may not provide the full details of the case to warrant a reclassification. By reading into the complaints face value (i.e., defined as the category under which they are filed and the extent to which they go unmodified during Compliance’s initial review), the statistics may not fully capture what the problem actually is. Simply stated, since complaints raised by registrants involving post expiration domain name recovery issues could be filed under several different categories and still be “accurate,” it is slightly challenging to quantify the prevalence of the problem; the narrower the approach taken to read into the statistics, the smaller the problem appears to be within the larger number of complaints we receive.

As of July 31, 2009, the Compliance team received the following complaints in 2009:

Possible Compliance Issues (thru July 31, 2009)	
Transfer Problems	1642
Replies	3
Whois	814
Registrar Service	417
UDRP	267
Contact Update	111
CCTLD	290
RIR PEN	2
Website Content	250
DN Dispute	982
Reseller Provider	271
Ownership Transfer	173
Redemption	73
Name Password	46
CPanel	65
Spam Abuse	371
Domain Renewal	355
Financial Transaction	101
GTLD	136
Other	894
Total	7263

A further breakdown of the “transfer problems” category in the complaint statistics is not done and the system used for complaint intake does not allow for this. However, a search within the text submitted with each complaint using the terms “expired” and/or “redemption” revealed that of the 1642 transfer problems reported so far, 644 complainants used these terms to describe their problem. Notice, however, that “redemption” and “domain renewal” are also a stand-alone categories (that the complainants chose not to use to file under). This offers some insight on possible misunderstandings the community faces when it comes to filing complaints and knowing which category would be more accurate to file under.

6.2 Expired Domain Deletion Policy Audits

Deletion and Renewal Consensus Policy Audit

ICANN’s compliance team carried out a deletion and renewal consensus policy audit in relation to the Expired Domain Deletion Consensus Policy early in 2009. The expired domain deletion policy states that, “At the conclusion of the registration period, failure by or on behalf of the Registered

Name Holder to consent that the registration be renewed within the time specified in a second notice or reminder shall, in the absence of extenuating circumstances, result in cancellation of the registration by the end of the auto-renew grace period (although Registrar may choose to cancel the name earlier). Among other requirements, the registrar must provide notice to each new registrant describing the details of their deletion and auto-renewal policy including the expected time at which a non-renewed domain name would be deleted relative to the domain's expiration date, or a date range not to exceed ten days in length. If a registrar makes any material changes to its deletion policy during the period of the registration agreement, it must make at least the same effort to inform the registrant of the changes as it would to inform the registrant of other material changes to the registration agreement." As part of the audit, ICANN's Compliance Staff found that a majority of ICANN-accredited registrars provide a notice on the Deletion and Removal Policy to registrants on their website. Over 82% of ICANN-accredited registrars actively selling domain names have information posted on their websites that explains what happens if registrants fail to renew their domain registration after a specified amount of time. In most cases, this information was found in the legal notices section or the registration agreement documents posted on registrars' websites. ICANN sent notices to registrars that did not appear to have a statement disclosing their Deletion and Removal Policy posted on their website allowing them to clarify the reasons for this and providing them five business days to post this information. ICANN followed up with registrars that were not complaint with the requirement to provide information to registered name holders about the registrar's deletion and renewal policy. To further clarify the intent of the EDDP for two noncompliant registrars, Staff sent a copy of the EDDP, along with the Advisory concerning the requirement to post fees for expired domain names, to the two registrars for rapid implementation and posting. Staff planned to review these registrar's websites in early January 2010 to see if the content has been modified, based on the additional guidance, and will pursue enforcement action if required.

Fees for Recovering Domains in Redemption Grace Period (RGP) Audit

ICANN Compliance recently completed an audit of all accredited registrar websites to establish if they were compliant with the Expired Domain Deletion Policy as it relates to fees charged to registered name holders for recovering domain names that have entered the Redemption Grace Period (RGP) (please refer to section 3.7.5.6 of the EDDP). A large number of registrars- close to 500

of them- posted information on their websites in relation to recovering domain names that are in RGP which either did not mention fees or mentioned them but did not specify any amount (e.g., “fees will apply”).

The EDDP requires registrars to post on their website the actual fees charged to registered name holders for recovering domain names that are in RGP. As a result, the ICANN Compliance Team has posted [an advisory](#) to clarify this requirement. In June 2010, ICANN will perform an audit of deficient registrars and take enforcement action where necessary.

Since ICANN does not have any contractual agreements with Resellers, the ICANN Compliance Team does not perform any audits on Resellers.

7. Deliberations of the Working Group

This chapter provides an overview of the deliberations of the Working Group conducted both by conference call as well as e-mail threads. The points below are just considerations to be seen as background information and do not necessarily constitute any suggestions or recommendations by the Working Group.

In addition to the specific charter questions, the PEDNR WG spent a substantial time debating the scope of the issues, especially in relation to the role of resellers, and whether actual evidence of harm exists which would assist in quantifying the issues and identify what changes, if any, would need to be made in order to address these issues. In addition, the WG debated what ‘adequate’, ‘clear’ and ‘conspicuous’ mean or should mean in this context. It was noted that an interpretation or definition of the term ‘adequate’ could also have implications for other provisions of the EDDP in which this term is used. In order to facilitate discussions and nomenclature, the PEDNR WG introduced the term ‘Registrant At the time of Expiration’ (RAE) to distinguish between the person or entity that is listed in WHOIS as the Registered Name Holder at the time of expiration and the person or entity that is listed in WHOIS as the Registered Name Holder following expiration (many registration agreements allow the Registrar to alter the WHOIS data to indicate that the Registrar itself, an affiliate, or a third party is the registrant at this time).

7.1 Charter Question 1: Whether adequate opportunity exists for registrants to redeem their expired domain names

- It was pointed out that no evidence was provided that demonstrates that there are registrars that do not provide registrants with an opportunity to recover their domain name registration following expiration. Some argued that ‘opportunity’ does not equate ‘adequate opportunity’.
- On discussion the possibility of a mandatory Renewal Grace Period, some pointed out that that would result in telling registrars how to spend their money as they would be automatically charged following expiration upon renewal with the registry. In the current situation, the registrar is generally immediately charged by the registry for the auto-renewal

following expiration; those costs are recovered from the registrant if it redeems the registration or reimbursed if the registration is deleted during the Auto-Renew Grace Period. Some suggested that an option would be to review this practice and explore whether the registry could absorb the costs, or whether another model could be explored. Others suggested that for registrars that do not delete the name early, a renewal grace period should always be offered to registrants.

7.2 Charter Question 2: Whether expiration-related provisions in typical registration agreements are clear and conspicuous enough

- Some argued that many expiration-related provisions in registration agreements are not clear and conspicuous as these are contracts and written for a legal purpose, not necessarily with clarity or enhanced consumer understanding in mind. Some note that there was no evidence that the use of legally appropriate language contributed to the unintentional loss of domain names, nor were the potential consequences of using legally ambiguous language explored. It was also noted that some of the provisions in registration agreements were not actually practiced, but included as a means to legally protect registrar discretion in unforeseen scenarios. Nevertheless, some felt that consumers would benefit from a predictable and transparent way in which expired domain name registrations are dealt with. Some suggested that a base line set of expectations should be developed so that registrants know what to expect as a minimum.
- Most agreed that additional education and information to registrants should be explored in order to enhance understanding of current practices and provisions in registration agreements relating to expiration and recovery.
- Some suggested that a central repository or document should be developed in which renewal and expiration related information from the different registrars would be held, which would be complimentary to the Registrant's Rights and Responsibilities charter which is currently under development.
- Instead of trying to define "clear and conspicuous", some suggested that it might be easier to define the opposite; what is considered unclear and obfuscated.

7.3 Charter Question 3: Whether adequate notice exists to alert registrants of upcoming expirations

- Many pointed out that the current display of WHOIS information is confusing as upon auto-renewal by the registry, the expiration date displayed will be one year from the actual expiration date, while the registrant actually has not paid for the renewal (yet). [Further details to be provided on difference between registrar WHOIS display and Internic display, and exact terms used in WHOIS display]. Upon viewing this information, the registrant might think that the domain name registration has been renewed. Some also noted that the format in which dates are displayed (MM/DD/YYYY) can be confusing for non-US registrants where other formats might be used (e.g. DD/MM/YYYY). It was also pointed out in the public comment period that WHOIS records do not indicate whether a registrant has requested a deletion of a domain name, which might mean that a complainant in a UDRP proceeding would not be able to exercise its rights under paragraph 3.7.5.7 of the EDDP.
- Many pointed out that first and foremost it is the responsibility of a registrant to renew their domain name registration prior to expiration and ensure that their contact information is up to date with the registrar so that notices and reminders are being received. It was pointed out that most registrars make every effort to ensure that reminders and notifications are sent out in due time to allow for timely renewal.
- The WG discussed the current provision in the EDDP, which only mentions ‘a second notice or reminder’ and debated whether further details should be provided on when and how those notices are sent to registrants. It was pointed out that in practice most registrars send more than two notices, which some providing exact details to registrants on when notices are being sent prior to and after expiration.
- The WG also discussed whether the registry should be required to send a notice to the registrant prior to expiration, but it was pointed out that in order to do so it would need access to registrant contact information, which is not available in so-called ‘thin⁵’ registries.
- The WG reviewed data from the Nominet [Domain Name Industry Report 2009](#), which found that of those people renewing their .uk domain name registration, 60% renew due to a reminder from their registrar, 25% believe their domain names renew automatically and

⁵ A thin Whois output includes only a minimum set of data elements sufficient to identify the sponsoring registrar, the status of the registration, and the creation and expiration dates of each registration.

7.3% renewed after receiving reminders from Nominet.

7.4 Charter Question 4: Whether additional measures need to be implemented to indicate that once a domain name enters the Auto-Renew Grace Period, it has expired (e.g., hold status, a notice on the site with a link to information on how to renew, or other options to be determined)

- The WG discussed potential options in further detail in the context of the WG survey (see section 8).

7.5 Charter Question 5: Whether to allow the transfer of a domain name during the RGP.

- In the context of this discussion, the issue was raised that with the current practice of changing the WHOIS details upon expiration, the RAE might not even be able to transfer the domain name registration during the Auto-Renew Grace Period as he or she is no longer listed as the registered name holder, which would make charter question 5 a moot question.
- Some argued that if transfer during the RGP is not allowed, then if the sponsoring registrar does not offer the voluntary RGP, the registrant cannot recover a domain during the RGP.
- Registrar participants on the WG expressed the concern that allowing transfers during RGP would merge two procedures that are targets for abuse. The unintended consequences of allowing transfer during RGP could lead to unforeseen vulnerabilities.

8. PEDNR WG Survey & Potential Options for Consideration

In order to assess the views of the WG members and determine where there might be agreement or consensus on a possible approach forward, a survey was conducted amongst the WG membership. Based on the initial results, a drafting team (a subset of the WG) was convened to refine the survey, including a selection of possible remedies. This section describes the refined survey, the options considered, and the poll results.

Where useful, a capsule summary of the initial survey responses are included.

Among the options are suggestions for registrar “best practices”. These could simply be published for the benefit of registrars, or they could be formulated into a voluntary set of standards that registrars could follow (and publicize that they follow them).

Following each question, there is a link to the applicable PDP Charter question in square brackets.

The WG is encouraging the ICANN Community to provide input on the different questions and options outlined below. Details of that process are provided in the [ICANN call for Public Comments](#). This will allow the widest possible input to be taken into account during the second phase of the PDP during which the WG hopes to reach consensus on a proposed way forward for each of the charter questions.

The following WG members participated in the second survey of which the results are displayed below. In summary, the reply distribution was: Registrars: 8, At-Large: 4; Business Constituency: 3, NCSG: 1, Registries: 1.

Name / Affiliation

- 1 Mikey O'Connor, CBUC
- 2 Helen Lavery, RC DotAlliance
- 3 Berry Cobb, CBUC
- 4 Cheryl Langdon-Orr, ALAC

Initial Report on the PEDNR PDP

Author: Marika Konings

- 5 Alan Greenberg, ALAC
- 6 Ron Wickersham, NCUC
- 7 Michele Neylon, Registrar
- 8 Glenn McKnight, FBSC
- 9 Paul Diaz, Network Solutions
- 10 Matt Serlin, MarkMonitor
- 11 Jeffrey Eckhaus, eNom
- 12 Mason Cole, Oversee.net
- 13 Sivasubramanian M, isoc india Chennai (ALS), Apralo, At-Large
- 14 Mike Rodenbaugh, Rodenbaugh Law
- 15 Michael Young, Afiliis
- 16 Gray Chynoweth, Dyn Inc.
- 17 James Bladel, GoDaddy.com / Registrar Stakeholder Group / GNSO

1 Overarching Issue

1. Should the RAE have the ability to recover his/her domain name registration following expiration for a certain amount of time? [Charter Question 1]

Issue: Although many registrars do provide the RAE the opportunity to recover the expired domain name registration following expiration, there is no obligation to do so. This question asks whether the RAE should have this ability with every registrar, at least for a certain amount of time.

Currently a registrar is allowed to delete an expired domain prior to the expiration of the 45 day auto-renew grace period. Any policy requirement to offer renewal post-expiration must address this situation.

In the first version of this survey, the WG reached unanimous consensus that the RAE should have the ability to recover his/her domain name registration following expiration for at least a certain amount of time.

WG response:

Options (select one)	Number of responses	Percentage
Change the Expired Domain Deletion Policy (EDDP) so that it incorporates the ability for every RAE to recover his/her domain name following expiration for at least a	8	47%

certain amount of time.		
Adopt a best practice recommendation that encourages registrars to provide the opportunity for every RAE to recover his/her domain name following expiration for at least a certain amount of time.	8	47%
Status quo – do not recommend any changes	1	6%
Total	17	100%

2. What should this minimum timeframe be during which the RAE has the ability to recover the domain name registration? [Charter Question 1]

Issue: Currently the timeframe during which the RAE can recover his/her domain name registration varies widely. Linked to the previous question, this question aims to assess what the minimum timeframe across all registrars should be during which the RAE has the ability to recover his/her domain name registration following expiration. In a survey of the 9 largest registrars, 1 currently provides 30 days, 3 provide 35 days, 4 provide 40 or more days, and 1 has a business model where all domains automatically renew unless explicitly deleted by the registrant. Any policy change should consider the current ability of a registrar to delete the name during the 45 day EDDP period and the ability of a RAE to explicitly request the deletion of a name.

WG Response:

<p>Options (Option a = Change the Expired Domain Deletion Policy (EDDP) so that it incorporates the minimum timeframe during which the RAE has the ability to recover the domain registration for:</p> <p>Option b = Adopt a best practice recommendation that encourages registrars to provide the opportunity for every RAE to recover his/her domain name following</p>	<p>Number of responses</p>	<p>Percentage</p>
--	-----------------------------------	--------------------------

expiration for at least:)		
Option a with less than 29 days	2	12%
Option a with 30 to 39 days	3	18%
Option a with 40 days or more	3	18%
Option b with less than 29 days	3	18%
Option b with 30 to 39 days	5	29%
Option b with 40 days or more	0	0%
c) Maintain status quo – do not recommend any changes	1	6%
Total	17	100%

2 Period Prior to Expiration

3. The current provisions in the RAA only make reference of a second notice – “3.7.5 At the conclusion of the registration period, failure by or on behalf of the Registered Name Holder to consent that the registration be renewed within the time specified in a second notice or reminder shall, in the absence of extenuating circumstances, result in cancellation of the registration by the end of the auto-renew grace period (although Registrar may choose to cancel the name earlier).” Is this provision sufficiently clear? [Charter Question 3]

Issue: As noted in the question, the relevant RAA provision only makes reference to a second notice, which by implication seems to mean that there has to be a first notice which is not specifically mentioned. There is no directive as to when the notices should be sent, other than the implication that they be sent at some time prior to expiration. However, many registrars do provide multiple notices before and after expiration. (Note, later questions addresses the issue of timing of notices and post-expiration notices).

Any policy change should consider conditions (such as deletion of the name) that remove the need for notices.

In the first version of this survey, the WG expressed strong support (67%) for the view that this provision is not sufficiently clear. A majority (60%) agreed that a minimum of two notices is sufficient (in one case with the proviso that the timing was adequate).

WG Response:

Options (select one)	Number of responses	Percentage
a) Revise the language in provision 3.7.5 or elsewhere in the RAA to clarify this provision and explicitly say that at least 2 notices are required to be sent prior to expiration.	13	76%
b) Revise the language in provision 3.7.5 or elsewhere in the RAA to clarify this provision and explicitly say that at least 3 notices are required to be sent prior to expiration	1	6%
c) Revise the language in provision 3.7.5 or elsewhere in the RAA to clarify this provision and explicitly say that at least 4 notices are required to be sent prior to expiration	0	0%
d) Revise the language in provision 3.7.5 or elsewhere in the RAA to clarify this provision and explicitly say that at least 5 notices are required to be sent prior to expiration	0	0%
e) Maintain status quo - keep the language of the RAA as is with no explicit mention of a requirement to send pre-expiration notices.	3	18%
Total	17	100%

4. Should further details be provided on when these notices are sent? If yes, what further details would facilitate transparency and information, while at the same time not restricting registrars from taking additional measures to alert registrants? [Charter Question 3]

Issue: Provision 3.7.5. does not provide any details as to when pre-expiration notices are sent. Should further details be provided with a view to provide predictability for registrants? Of issue is to ensure that the notices are not so far in advance of expiration that they do not seem relevant, but not so close to expiration to make taking remedial action impractical or impossible.

1st Response: A small majority (53%) agreed that further details should be provided.

WG response:

Options (select one)	Number of responses	Percentage
At a minimum, one message must be sent one month (+ one week) prior to expiration and one message must be sent one week (+ three calendar days) prior to expiration.	12	71%
Maintain status quo – no changes required to the RAA.	5	29%
The RAA should specify the timing of the required messages, and the timing should be	0	0%
Total	17	100%

5. Should further details be provided on how these notices are sent? If yes, what further details would facilitate transparency and communications, while at the same time not restricting registrars from taking additional measures to alert registrants? [Charter Question 3]

Issue: Provision 3.7.5. does not provide any details as to how pre-expiration notices are sent. Although there is often a presumption that the (or a) prime method of notification will be e-mail, there is no explicit statement of this, or any other communications method. Should further details be provided with a view to provide predictability for registrants? Of issue is to attempt to ensure that notices are received by the registrant, but not to restrict registrars and not to overly control what might otherwise be business model differentiators.

WG Response:

Options (select all that apply)	Number of responses	Percentage
Recommend that the RAA be amended to: use a specific method of communications [Specify in the comment box below]	2	12%
Recommend that the RAA be amended to: State clearly in the registration agreement and (for web-based registrations / renewals) on the web site exactly what communications	7	41%

method(s) will be used.		
Recommend that the RAA be amended to: Define the billing contact as the entity which, along with the registrant, should receive these notices	5	29%
Recommend that the RAA be amended to: Registrar accounts can notify of impending expirations in their control website	2	12%
Recommend that the RAA be amended to: Should be required to issue a warning for any contact addresses that use the domain in question (both at initial registration and when WHOIS data is changed). This will remind registrants that if "domain.tld" has expired, mail to "user@domain.tld" will not be delivered.	6	35%
Recommend that the RAA be amended to: Must advise Registrant to include at least one fax number	1	6%
Recommend that the RAA be amended to: Use at least two mechanisms for contact (i.e. both email and phone, or email and letter)	4	24%
Recommend that the RAA be amended to: Should allow alternate email addresses and telephone numbers for specific contacts in WHOIS	3	18%
None of the above	6	35%
Recommends that documentation encourage that registrars: Use a specific method of communications [Specify in the comment box below]	3	18%
Recommends that documentation encourage that registrars: State clearly in the registration agreement and (for web-based registrations / renewals) on the web site	8	47%

exactly what communications method(s) will be used.		
Recommends that documentation encourage that registrars: Define the billing contact as the entity which, along with the registrant, should receive these notices	3	18%
Recommends that documentation encourage that registrars: Registrar accounts can notify of impending expirations in their control website	4	24%
Recommends that documentation encourage that registrars: Should only accept WHOIS data that includes at least one contact used for expiration notifications with an address other than the domain in question (that is, if "domain.tld" has expired, at least one of the contact addresses must not be user@domain.tld").	3	18%
Recommends that documentation encourage that registrars: Should be required to issue a warning for any contact addresses that use the domain in question (both at initial registration and when WHOIS data is changed)	4	24%
Recommends that documentation encourage that registrars: Must advise Registrant to include at least one fax number	1	6%
Recommends that documentation encourage that registrars: Use at least two mechanisms for contact (i.e. both email and phone, or email and letter)	3	18%
Recommends that documentation encourage that registrars: Should allow alternate email addresses and telephone numbers for specific contacts in WHOIS	4	24%
None of the above	3	18%

6. Should additional measures be implemented to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders? If 'yes', what kind of measures should be explored? [Charter Question 3]

Issue: If registrants contact information is not up to date or otherwise not functional, pre- and post-expiration notices will not be received. It is the responsibility of a registrant to ensure that their contact information is up to date with the registrar so that notices and reminders are being received.

WG response:

Options (select all that apply)	Number of responses	Percentage
a1) Recommend the implementation of additional measures to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders. Such notifications should occur at the time of domain registration, and domain renewal. For web-based access, require positive acknowledgement from registrant that inaccurate or insufficient contact information could lead to loss of domain at expiration time.	5	29%
a2) Recommend the implementation of additional measures to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders. Such notifications should occur at the time of domain registration, and domain renewal. For web-based access, Registrar must link to ICANN tutorial of importance of accurate contact information.	4	24%
None of the above	3	18%

b1) Recommend a best practice encouraging registrars to implement additional measures to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders. For web-based access, require positive acknowledgement from registrant that inaccurate or insufficient contact information could lead to loss of domain at expiration time.	8	47%
b2) Recommend a best practice encouraging registrars to implement additional measures to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders. For web-based access, Registrar must link to ICANN tutorial of importance of accurate contact information.	5	29%
None of the above.	2	12%
c) Recommend that no additional measures are needed	1	6%

3 Post-Expiration

The first survey included the question: *Should additional measures be implemented to indicate that once a domain name registration passes its expiration date, it is clear that it has expired? [Charter Question 4].*

There was strong support (60%) for implementing additional measures to the possibility that a RAE is aware of the expiration.

Although many registrars do use additional measures to indicate a domain name registration enters the Auto-Renew Grace Period, such as a notice on the web-site, there are no required measures or best practices on what should happen once a domain name registration enters the Auto-Renew Grace Period.

The following questions explore such additional measures.

7. Should WHOIS status messages related to expiration be clarified / changed to avoid confusion over when a domain name registration expires / has been renewed by the registry? [Charter Question 3]

Issue: The current display of WHOIS information is confusing as upon auto-renewal by the registry, the expiration date displayed will be one year from the actual expiration date, while the registrant actually has not paid for the renewal (yet). Upon viewing this information, the registrant might think that the domain name registration has been renewed. The confusion arises because there are two “expiration” relationships: that between the registry and registrar, and that between the registrar and registrant. Note: it is understood that this may require changes to the Registrar:Registry EPP (Extensible Provisioning Protocol).
In the first version of this survey, there was rough consensus (73%) that WHOIS status messages related to expiration should be clarified.

WG response:

Options (select one)	Number of responses	Percentage
a) Recommend that WHOIS status messages related to expiration be clarified to avoid confusion over when a domain name registration expires.	15	88%
b) Status quo – do not recommend any changes	2	12%
Total	17	100%

8. Are notices post-expiration required? [Charter Question 3]

Issue: Although many registrars do send notices post-expiration, there is no requirement to do so. There was some question in the mind of some WG members whether a registrar has any responsibilities to take such actions after expiration as the contract with the registrant has expired. In addition, some pointed out the technical challenges of communication post-expiration if all applicable e-mail contacts use the domain that has expired.

WG response:

Options (select one)	Number of responses	Percentage
a1) In cases where there is an opportunity for the RAE to renew a domain post-expiration, require post-expiration notice(s). Such notice must include details of how the name can be recovered including the applicable time-constraints. At least 1 post-expiration reminder	3	18%
a2) In cases where there is an opportunity for the RAE to renew a domain post-expiration, require post-expiration notice(s). Such notice must include details of how the name can be recovered including the applicable time-constraints. At least 2 post-expiration reminders	4	24%
b) Recommend the sending of post-expiration notices as a best practice.	6	35%
c) Status quo – do not recommend any changes.	4	24%
Total	17	100%

9. How should an HTTP (port 80) request using the expired domain name resolve? [Charter Question 4]

Issue: Currently there is no guidance or requirement as to what happens when a web query is sent to a URL within an expired but still recoverable domain. The options may include

- It appears to work just as it did prior to expiration (it may directly to the original site, or may be transparently re-directed by the registrar).
- DNS does not have an IP address for the domain
- There is an address, but it does not respond
- A page provided by the registrar (or associated party) comes up. This page may or may not be monetized, and it may or may not include a message indicating that it is an expired domain. If an expired domain is indicated, it

may or may not include instructions on how the RAE can recover the domain, or the time constraints involved.

Some registrars start with one option and then change to another after a specific period of time. Many large registrars use one of the methods to disable web site functionality at some point during the post-expiration process.

Some people advocate having the domain continue to work as a courtesy to the RAE, allowing them to continue having the functionality of the name despite its expiration. Others argue that some form of “not working” is the optimal way to attract the attention of the RAE.

In the first version of this survey, there was a general consensus that stopping the functioning of a web site was the best way to get the RAE’s attention.

Any policy change should consider exemptions for situations where the registrar is in active bi-directional contact with the RAE and resolution of the issue is being discussed.

WG Response:

Options (select one)	Number of responses	Percentage
a) Recommend that URLs using the expired domain (and all subdomains) must not be allowed to resolve (directly or indirectly) to the original IP after expiration within several days after expiration (any such policy must consider defining "several days" more explicitly)	6	35%
b) Recommend that it be a best practice that URLs using the expired domain (and all subdomains) should not be allowed to resolve (directly or indirectly) to the original IP after expiration within several days after expiration	6	35%
c) Maintain status quo - domains are allowed to resolve (directly or indirectly) to the original IP after expiration	5	29%
Total	17	100%

10. How should e-mail directed at an address within the expired domain behave after expiration [Charter Question 4]

Issue: Currently there is no requirement or standard practice on what should happen with e-mail addressed to an e-mail address in an expired domain. Some argue that if e-mail is delivered as usual, the registrant might not be aware that the domain name registration has expired particularly for domains that are used exclusively for e-mail. Others argue that e-mail is a critical resource and should not be disabled if at all possible.

There is a also an issue of privacy, if personal e-mail may be intercepted by those other than the intended recipient. Ultimately, if the domain is acquired by someone else, it would be technically possible to such e-mail to be intercepted.

Lastly, there is an RFC which specifies that mail should just disappear, but rather be bounced, but that could lead to the possibility of spam-related problems.

Current registrar practice varies by registrar and may also depend on whether a registrar-controlled DNS is used by the RAE.

In the first version of this survey, the responses were quite diverse, because the original question provided possible answers that were very attractive, but may not be technically feasible (such as redirecting all mail to an RAE-specified address).

WG response:

Options (select one)	Number of responses	Percentage
a) Require that within several days of expiration, e-mail destined for an address within the expired domain be either ignored (times out, be received and discarded) or bounced. (Any such policy must consider defining "several days" more explicitly)	7	44%
b) Recommend that as a best practice e, e-mail destined for an address within the expired domain be either ignored (times out, be received and discarded) or bounced.	1	6%

c) Maintain status quo – leave it at the discretion of the registrar to decide what happens with e-mail addressed to an e-mail address in an expired domain.	8	50%
Total	16	100%

11. What should happen with non-web, non-e-mail services post expiration (i.e. should ICANN specify what happens to ALL IP ports, or just those specific to web and e-mail services)?

[Charter Question 4]

Issue: Web access and e-mail are just two specific services using the Internet infrastructure. A domain name can be used for any service (including machine-to-machine protocols with no human intervention). Currently there are no requirements or recommendations as to what should happen to these services post expiration. Therefore, they could either continue to work, or could stop, depending on how the registrar alters the registration after expiration. Just as with the web and e-mail, some argue that ceasing to function is the optimal way to catch the RAE's attention after expiration.

WG response:

Options (select one)	Number of responses	Percentage
a) Recommend that all services must cease functioning as they did pre-expiration within several days of expiration. (Any such policy must consider defining "several days" more explicitly)	5	31%
b) Recommend a best practice that all services should cease functioning as they did pre-expiration within several days of expiration.	4	25%
c) Maintain status quo – no need for any specification.	7	44%
Total	16	100%

12. Should a RAE have the ability to request an Inter-Registrar Transfer after expiration?

Issue: Current policy allows Inter-Registrar transfers after expiration but before deletion. A losing registrar cannot refuse such a transfer except in the limited circumstances specifically enumerated by the Transfer Policy (such as non-payment for the PREVIOUS year or UDRP action). See <http://www.icann.org/en/announcements/advisory-03apr08.htm> for further details.

However, situations can exist where the RAE can not make the request for such transfer. Specifically: the RAE can not obtain the Auth Code required to request the transfer from the Gaining Registrar; the Domain is “locked” by the Registrar of Record disallowing transfer and the RAE has no access to request that it be unlocked; or the WHOIS data has been changed by the Registrar of Record (often allowed by registration agreements) so that the RAE cannot prove that they are the current registrant to the Gaining Registrar or Registry.

WG response:

Options (select one)	Number of responses	Percentage
a) Recommend that a registrar must facilitate the outgoing transfer of a domain post-expiration. Facilitation includes providing an effective mechanism for a RAE of an expired domain name to request an Auth Code; to have the domain unlocked, to restore the WHOIS contents or whatever is required to allow a RAE to effect an Inter Registrar Transfer.	6	35%
b) Recommend a best practice that a registrar should facilitate the outgoing transfer of a domain post-expiration	2	12%
c) Maintain the status quo	9	53%
Total	17	100%

4 Contractual Conditions

13. Are you of the opinion that registrants understand and are able to find renewal and expiration related information easily? How can such understanding be improved? [Charter Question 2]

Issue: Currently there are no rules or guidelines on how / what information needs to be included in registration agreements in relation to renewal and expiration related provisions.

Although the EDDP requires renewal and expiration related information to be clearly displayed on a registrar web site (if any), there is no definition of what ‘clearly’ means. In addition, some have argued that provisions in registration agreements are not clear and easily understandable.

Registrars on the PDP WG have stated that it is close to impossible to word registration agreements so that they will be very clear and understandable, and still have them be provide the legal safeguards that they and their lawyers feel is necessary.

WG response:

Options (select one)	Number of responses	Percentage
a) Recommend ICANN to put in place rules that mandate some level of clarity and predictability in registration agreements and related materials. Specifically the use of plain language contracts (where possible); use of explanatory notes, plain language (and interpreted text where relevant) registrant explanatory materials and/or primers; Informational and educational (self help) information sharing for increasing the knowledge of Registrants	6	35%

b) Suggest that registrars develop a best practice related to clarity and predictability of registration agreements and related materials. Specifically the use of plain language contracts (where possible); use of explanatory notes, plain language (and interpreted text where relevant) registrant explanatory materials and/or primers; Informational and educational (self help) information sharing for increasing the knowledge of Registrants	7	41%
c) Maintain status quo – leave it at the discretion of registrars to ensure that such information is clear and conspicuous.	4	24%
Total	17	100%

14. Should the fee to be charged for renewal of a domain name after expiration be explicitly stated?

Issue: The EDDP required that the fee charged for recovery during the Recovery Grace Period be clearly displayed on the registrar web site (if there is one), but made no such requirement of the fee for post-expiration renewal prior to the RGP.

WG response:

Options (select one)	Number of responses	Percentage
a) Modify the Expired Domain Deletion Policy (EDDP) to require that the web site should state, both at the time of registration or renewal and in a clear place on its web site, the fee for renewal of a domain name after expiration.	8	47%
b) Suggest that registrars develop a best practice related display of the fee for post-expiration renewal.	6	35%
c) Maintain status quo - leave it at the discretion of registrars to ensure that such fees are published.	3	18%
Total	17	100%

15. Should information on where to find the cost for recovery after expiration be in the registration agreement? [Charter Question 1]

Issue: There is currently no requirement for where / how information on the cost for recovery after expiration can be found. Some registrars include this information in their registration agreement, others post it on their web-site. This question asks whether there should be a predictable location where registrants are able to find this information or the location of this information? The current RAA does specify “3.7.5.6 If Registrar operates a website for domain registration or renewal, it should state, both at the time of registration and in a clear place on its website, any fee charged for the recovery of a domain name during the Redemption Grace Period.”

WG response:

Options (select all that apply)	Number of responses	Percentage
a) Modify the Expired Domain Deletion Policy (EDDP) so that information on where to find the cost for recovery after expiration is included in the registration agreement.	8	47%
b) Modify the EDDP to include that If Registrar operates a website for domain name registration or renewal, details of Registrar's cost for recovery after expiration must be clearly displayed on the website.	8	47%
c) Modify the WHOIS Data Reminder Policy (WDRP) to include information on renewal and expiration policies, including the cost for recovery after expiration	7	41%
d) None of the above.	5	29%

5 Redemption Grace Period

16. Should the Redemption Grace Period be adopted as a consensus policy for gTLD Registries? [Charter Question 1]

Issue: The concept of a Redemption Grace Period (RGP) was created in 2002 to address a perceived problem if businesses and consumers are losing the rights to their domain names through registration deletions caused by mistake, inadvertence, or fraud (<http://www.icann.org/en/registrars/redemption-proposal-14feb02.htm>). Although all non-sponsored gTLDs apart from .pro and .name offer the RGP as a voluntary Registry Service, there is no obligation to offer the RGP. None of the sponsored gTLDs offer the RGP. As part of the new gTLD process, new gTLDs will emerge that will have no obligation to offer the Redemption Grace Period, and based on the experience with the sponsored gTLDs, it is unclear if many will volunteer to offer the service.

VeriSign reports that there were an average of about 4800 RGP restores per month for .com and .net combined in 2009, and PIR reports that there about 350 per month for .org.

Anecdotally, many of the people involved in the original RGP discussions expected that it would be adopted as a Consensus Policy, but it never happened.

WG response:

Options (select one)	Number of responses	Percentage
a) Recommend the adoption of the RGP as a consensus policy for gTLD registries, possibly with an exception for some gTLDs if their policies do not allow for the deletion of a name without the explicit approval of the RAE.	11	65%
b) Maintain status quo – leave RGP as an option gTLD registries may offer.	6	35%
Total	17	100%

17. Should registrars be required to offer the Redemption Grace Policy for registries that offer it? [Charter Question 1]

Issue: Although most registrars offer the Redemption Grace Policy (RGP) for registries that offer it, there is no obligation to do so. For registrars which do not allow any

recovery following expiration (either due to policy or due to immediate delete), the RGP is the only possible method of recovery. Only the registrar of record for a domain can request its recover under the RGP.

WG response:

Options (select one)	Number of responses	Percentage
a) Require registrars to offer the Redemption Grace Policy by adopting it as a consensus policy.	10	62%
b) Maintain status quo – registrars can choose to offer the RGP for registries that offer it.	6	38%
Total	16	100%

18. Should a transfer of a domain name during the RGP be allowed? [Charter Question 5]

Issue: Currently a transfer of a domain name registration during the RGP is not allowed. At the time the current transfer policies were developed, a transfer during RGP was contemplated but no decision was taken.

If a domain is deleted for a registry that supports the RGP, but the registrar of record does not offer the RGP, the domain cannot be recovered.

WG response:

Options (select one)	Number of responses	Percentage
a) Recommend that a transfer of a domain name registration during RGP should be allowed	2	12%
b) Recommend that a transfer of a domain name registration during RGP be allowed only if the registrar of record does not offer the RGP	2	12%
c) Recommend that a transfer of a domain name registration during RGP should be allowed if a registrar does not offer any other means of recovery post-expiration for a period no less than the 30 day RGP duration.	2	12%

d) Maintain status quo - A transfer of a domain name registration during RGP should not be allowed	11	65%
Total	17	100%

9. Stakeholder Group / Constituency Statements & Public Comment Period

This section features issues and aspects of the PEDNR PDP reflected in the statements from the GNSO constituencies and comments received during the public comment period.

9.1 Initial Public Comment Period

The public comment period ran from 20 August to 10 September 2009. Fourteen (14) community submissions from 13 different parties were made to the public comment forum. A number of contributors responded directly to the charter questions or certain comments could be categorized under these questions, others raised broader issues and considerations for the WG to consider in relation to its deliberations on post-expiration domain name recovery. A detailed summary of all comments received can be found here: <http://forum.icann.org/lists/pednr-wg-questions/msg00014.html>. The WG reviewed and discussed the public comments received thoroughly at its meetings on 22 September, 29 September, 6 October and 13 October (for further details, see [here](#)).

9.2 Stakeholder Group / Constituency Statements

The Constituency Statement Template (see Annex B) was sent to all the constituencies. Feedback was received from the Intellectual Property Interests Constituency, gTLD Registry Stakeholder Group, Registrar Stakeholder Group and the Business and Commercial Users' Constituency. These entities are abbreviated in the text as follows:

IPC - Intellectual Property Interests Constituency

RyS - gTLD Registry Stakeholder Group

RS – Registrar Stakeholder Group

BC – Business and Commercial Users' Constituency

9.3 Stakeholder Group / Constituency Views

The four statements responding to the questions outlined in the template were submitted by the Intellectual Property Constituency (IPC), the Registry Stakeholder Group (RyS) the Registrar Stakeholder Group (RS) and the Business and Commercial Users' Constituency (BC). The complete text of the constituency statements that have been submitted can be found here [provide link to wiki page with Constituency / Stakeholder Group statements]. These should be read in their entirety. The following section attempts to summarize key constituency views on the issues raised in the context of PEDNR PDP. This section also summarizes further work recommended by the various stakeholder groups / constituencies, possible actions recommended to address the issues part of the PEDNR PDP, and the impact of potential measures on the GNSO stakeholder groups / constituencies.

Charter Question 1: Whether adequate opportunity exists for registrants to redeem their expired domain names

The IPC notes that requiring a mandatory 30-day renewal grace period following expiration, with an additional email reminder 15 days following expiration, could provide additional safeguards to the registrant. The BC is of the opinion that there is adequate opportunity, but points out that inconsistencies in the transaction process of an expired domain name can lead to market confusion and in some cases create unfair market conditions that ultimately fail to uphold the practice of maintaining openness and transparency. The BC adds that all registrants require openness, transparency and predictability in connection to the expiration of domain names. The RS considers that there is adequate opportunity and points out that as a practice, registrars encourage registration renewal before and after expiration. The RS adds that unintentional non-renewal of a registration is very rare. The RyS points out that registry operators do not have visibility of registrants' opportunity to redeem expired domain names and supports the WG to try to: summarize the major alternatives that registrars give registrants to redeem expired domain names; develop some criteria to define 'adequate opportunity', and; evaluate whether any registrar alternatives do not give adequate opportunity.

Charter Question 2: Whether expiration-related provisions in typical registration

agreements are clear and conspicuous enough

The IPC notes that the Registrar Accreditation Agreement (RAA) clearly sets out obligations for registrars and adds that if registrars are not complying, ICANN's compliance department should take action. The IPC proposes that ICANN's compliance department should require each accredited registrar to provide it with a current copy or link to its standard registration agreement, and be required to keep these copies or links up to date. The BC points out that clear and not so clear conditions exist across the market space. As a result, it supports the promotion of consistency where feasible as this enhances fair competition and right-sizes business practices in the market. The RS points out that as required by the RAA and the Expired Domain Deletion Policy (EDDP), terms and conditions of expiration and renewal policies are maintained on registrar web sites. The RS adds that registrars endeavour to use clear and understandable language whenever possible in the context of presenting a valid legal agreement. The RyS notes that an opinion on this question would require an exhaustive examination of agreements between registrar and registrants.

Charter Question 3: Whether adequate notice exists to alert registrants of upcoming expirations

The IPC recommends that the PEDNR WG examines the data necessary to determine if there is a correlation between non-renewed domain names and reminder notices which are undeliverable due to a bad email address or inaccurate contact information. The BC is of the opinion that in general there is adequate notice, but notes that it is more a question of compliance and monitoring of compliance for market participants than a change to existing policy. In addition, it notes that failure to maintain accurate WHOIS is a leading culprit to expiration alert notification failure. The RS states that most registrars, if anything, over-notify their customers of pending expirations. It adds that maintaining accurate WHOIS information is a registrant responsibility, and if a domain name is a critical asset, registrants would presumably take measures to be sure the registration is properly monitored and renewed. The RyS notes that an opinion on this question would require an exhaustive examination of agreements between registrar and registrants.

Charter Question 4: Whether additional measures need to be implemented to indicate that once a domain name enters the Auto-Renew Grace Period, it has expired (e.g., hold

status, a notice on the site with a link to information on how to renew, or other options to be determined)

The IPC recommends that consideration should be given to an update to the WHOIS record, analogous to the dispute notice to reflect that the domain name is now expired and to provide information on how to effectuate a redemption and renewal. The BC reserves its comments until the PEDNR WG has completed its analysis. The RS is of the opinion that this is unnecessary and notes that it is highly unlikely that additional measures would encourage renewals when previous notices have not. The RyS is of the opinion that this question should be answered after more data is gathered and should be a guiding question for the PEDNR WG. In addition, it points out that another meaningful question is ‘what current, contemporary purpose is served by the Auto-Renew Grace Period, and how does it affect or influence the success of the subsequent RGP’?

Charter Question 5: Whether to allow the transfer of a domain name during the RGP

The IPC is of the opinion that a transfer of a domain name should not be allowed apart from a transfer to the original Registered Name Holder. The BC points out that there are several technical implications around policy changes to the expiration process and therefore reserves its comments until the PEDNR WG has completed its analysis. The RS notes that the proposal is complicated and may be better addressed under the IRTP PDP process as any potential policy changes could result in unintended consequences and would need to be studied carefully. The RyS is of the opinion that the restoration of expired names during the RGP and transfers should remain separate and distinct activities and points out that a transfer can always be requested following the successful restoration of an expired domain name.

General Comments

The BC points out that the preliminary work of the WG appears to indicate that registrar practices in connection with the transfer of domain names post expiration may result in inaccurate WHOIS data that may materially impact other stakeholders in the DNS. The RS states that the premise of this proposal is that something bad might happen to a registration - not that there is demonstrated harm occurring and a remedy must be provided immediately. It adds that the ICANN Community cannot encourage competition and innovation, then seek to regulate it without clear evidence of

harm. It furthermore adds that no ICANN policy or registrar practice can provide full insurance against unintentional loss of a registration, or against the potential bad faith behaviour of a registrar or reseller. In addition, the RS points out that registrars are more than willing to contribute in good faith to preventing unintentional loss of a customer's name. Should the community believe that 'bad actors' need to be addressed, registrars will discuss ways to do so that do not needlessly disrupt operations of the 'good actors' and further distract the community from more important issues.

10. Conclusions and Next Steps

The Working Group aims to complete this section of the report in the second phase of the PDP, following a second public comment period.

Annex A – Post-Expiration Domain Name Recovery - PDP Working Group Charter

As adopted by the GNSO Council on 24 June 2009

Whereas:

The GNSO council has decided to initiate a PDP on Post-Expiration Domain Name Recovery (PEDNR);
and

The GNSO council had decided against initiating a Task force as defined in the bylaw;

The GNSO Council RESOLVES

To form a Working Group composed of Constituency representatives as well as interested stakeholders in order to develop potential policy and/or best practices to address the issues covered, while seeking additional information as appropriate to inform the work. The WG will also be open to invited experts and to members or representatives of the ICANN Advisory Committees, whether acting in their own right or as representatives of their AC.

The Working Group initially shall:

1. Pursue the availability of further information from ICANN compliance staff to understand how current RAA provisions and consensus policies regarding deletion, auto-renewal, and recovery of domain names following expiration are enforced;
2. Review and understand the current domain name life cycle;
3. Review current registrar practices regarding domain name expiration, renewal, and post-expiration recovery.

The Working Group shall then consider the following questions:

1. Whether adequate opportunity exists for registrants to redeem their expired domain names;
2. Whether expiration-related provisions in typical registration agreements are clear and conspicuous enough;
3. Whether adequate notice exists to alert registrants of upcoming expirations;
4. Whether additional measures need to be implemented to indicate that once a domain name enters the Auto-Renew Grace Period, it has expired (e.g., hold status, a notice on the site with a link

to information on how to renew, or other options to be determined);

5. Whether to allow the transfer of a domain name during the RGP.

The Working Group is expected to organize an issue update / workshop at the Seoul meeting, in addition to an update to the GNSO Council.

The Working Group should consider recommendations for best practices as well as or instead of recommendations for Consensus Policy.

Working Group processes:

While the development of Guidelines for Working Group operations are still to be developed the following guidelines will apply to this WG:

The WG shall function on the basis of rough consensus, meaning all points of view will be discussed until the chair can ascertain that the point of view is understood and has been covered. Consensus views should include the names and affiliations of those in agreement with that view. Anyone with a minority view will be invited to include a discussion in the WG report. Minority report should include the names and affiliations of those contributing to the minority report.

In producing the WG report, the chair will be responsible for designating each position as having one of the following designations:

- Unanimous consensus position
- Rough consensus position - a position where a small minority disagrees but most agree
- Strong support but significant opposition
- Minority viewpoint(s)

If several participants in a WG disagree with the designation given to a position by the chair or any other rough consensus call, they can follow these steps sequentially :

1. Send email to the chair, copying the WG explaining why the decision is believed to be in error.
2. If the chair still disagrees, forward the appeal to the council liaison(s) to the group. The chair must explain his or her reasoning in the response.

If the liaisons support the chair's position, forward the appeal to the council. The liaison(s) must explain his or her reasoning in the response.

3. If the council supports the chair and liaison's position, attach a statement of the appeal to the board report.

This statement should include all of the documentation from all steps in the appeals process and should include a statement from the council.

The chair, in consultation with the GNSO council liaison(s) is empowered to restrict the participation of someone who seriously disrupts the WG. Any such restriction will be reviewed by the GNSO council. Generally the participant should first be warned privately, and then warned publicly before such a restriction is put into place. In extreme circumstances this requirement may be bypassed.

The WG will have an archived mailing list. The mailing list will be open for reading by the community. All WG meetings will be recorded and all recordings will be available to the public. A PEDNR WG mailing list has been created (gnso-pednr-dt@icann.org) with public archives at: <http://forum.icann.org/lists/gnso-pednr-dt/>. A SocialText wiki has been provided for WG usage and can be found at [post expiration domain name recovery wg](#)

If the guidelines for WG processes change during the course of the WG, the WG may continue to work under the guidelines active at the time it was (re)chartered or use the new guidelines.

The council liaisons to the WG will be asked to report on the WG status monthly to the council.

All WG charters must be reviewed by the GNSO council every 6 months for renewal. Milestones WG formed, chair & Council liaison & staff coordinator identified = T

Initial Report: T + 150 - 170 days

First comment period ends: T + 170 - 200 days

Preliminary Final Report: T + 190 - 220 days.

Note: if the WG decided that a change is needed to the milestone dates, it should submit a revised time line to the GNSO council for approval

Annex B - Constituency Statement Template

Constituency Input Template

Post-Expiration Domain Name Recovery Policy Development Process

PLEASE SUBMIT YOUR RESPONSE AT THE LATEST BY **FRIDAY 18 SEPTEMBER** TO THE PEDNR WG
(gnso-pednr-dt@icann.org)

The GNSO Council has formed a Working Group of interested stakeholders and Constituency representatives, to collaborate broadly with knowledgeable individuals and organizations, in order to consider recommendations for best practices as well as or instead of recommendations for Consensus Policy to address a number of questions related to post-expiration domain name recovery.

Part of the working group's effort will be to incorporate ideas and suggestions gathered from Constituencies through this Constituency Statement. Inserting your Constituency's response in this form will make it much easier for the Working Group to summarize the Constituency responses. This information is helpful to the community in understanding the points of view of various stakeholders. However, you should feel free to add any information you deem important to inform the working group's deliberations, even if this does not fit into any of the questions listed below.

For further background information on this issue, please review the [GNSO Issues Report on Post-Expiration Domain Name Recovery](#).

Process

- Please identify the members of your constituency who participated in developing the perspective(s) set forth below.
- Please describe the process by which your constituency arrived at the perspective(s) set forth below.

Questions

Please provide your constituency's views on:

1. Whether adequate opportunity exists for registrants to redeem their expired domain names;
2. Whether expiration-related provisions in typical registration agreements are clear and conspicuous enough;
3. Whether adequate notice exists to alert registrants of upcoming expirations;
4. Whether additional measures need to be implemented to indicate that once a domain name enters the Auto-Renew Grace Period, it has expired (e.g., hold status, a notice on the site with a link to information on how to renew, or other options to be determined);
5. Whether to allow the transfer of a domain name during the Redemption Grace Period (RGP).