

# Draft 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 [TBC]. 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.

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## Glossary

- To be completed

# 1. Executive Summary

To be completed

## 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 for 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

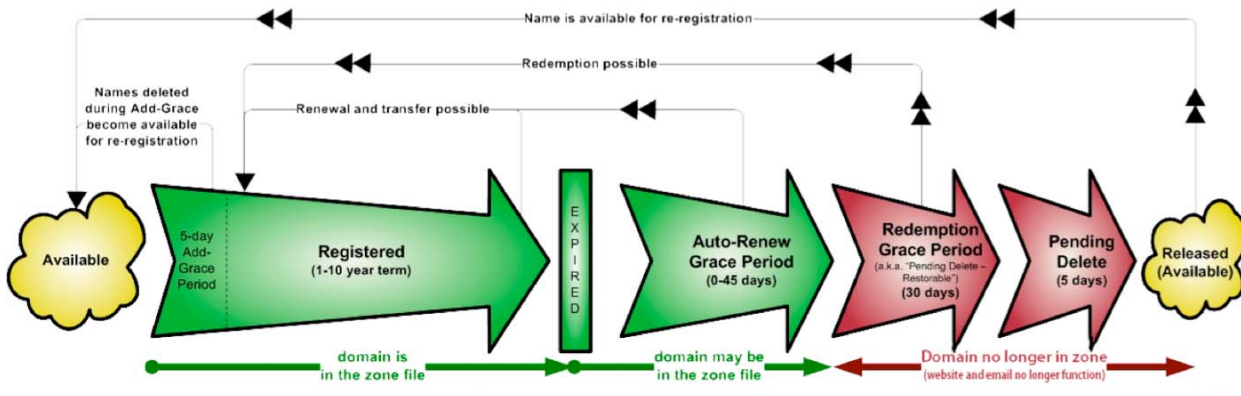
- At the ICANN Meeting in Cairo in November 2008, the At-Large Advisory Committee (ALAC), voted to request an Issues Report on the subject of registrants being able to recover domain names after their formal expiration date. Some in the At-Large community are of the opinion that there isn't always adequate 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 (excerpt 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 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 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 an auto-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 auto-renewal policy and/or share in the profits of a sale or auction of the domain name.
- Rob Hall, a registrar representative in a 2007 tutorial offered at the ICANN public meeting in Lisbon on '[How the Marketplace for Expiring Names Has Changed](#)', noted that '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'.

- 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)**

- Following a rising tide of problems and complaints relating to deletion of domain-name registrations, 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:

Name	Affiliation
Karim Attoumani	Governmental Advisory Committee
James Bladel	Registrar Stakeholder Group
Berry Cobb	Commercial and Business Users Constituency
Mason Cole	Registrar Stakeholder Group
Phil Corwin	Commercial and Business Users Constituency
Paul Diaz	Registrar Stakeholder Group
Alaine Doolan	Intellectual Property Constituency
Avri Doria	Non-Commercial User Constituency
Jeff Eckhaus	Registrar Stakeholder Group
J.Scott Evans	Intellectual Property Constituency
Chuck Gomes	GNSO Chair
Alan Greenberg (Chair)	At Large Advisory Committee
Rob Hall	Registrar Stakeholder Group
Tatyana Khramtsova	Registrar Stakeholder Group
Mark Klein	Registrar Stakeholder Group
Cheryl Langdon-Or	At-Large Advisory Committee Chair

Helen Lavery	Registrar Stakeholder Group
Glenn McKnight	At-Large
Divina Meigs	Non-Commercial User Constituency
Sivasubramanian Muthusamy	At-large
Michele Neylon	Registrar Stakeholder Group
Mike O'Connor	Commercial and Business Users Constituency
Michael Palage	Commercial and Business Users Constituency
Tim Ruiz (Council Liaison)	Registrar Stakeholder Group
Matt Serlin	Registrar Stakeholder Group
Mike Rodenbaugh	Commercial and Business Users Constituency
Ron Wickersham	Non-Commercial User Constituency
Ted Suzuki	Intellectual Property Constituency
Michael Young	Registry Stakeholder Group

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/>.

## 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. The complete survey questions and findings can be found in Annex C.

### 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.

### 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. 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. Some registrar provide a detailed calendar of when notices are sent, others do not. 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 notify the RAE, but in practice these registrars do appear to 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) 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 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 seven 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 one instance, 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. Only one registrar confirms that e-mail is sent both to the admin contact in the Whois record, and also to the e-mail address in the customer account as provided by the customer, which might result in delivery. This question is not applicable to the registrar that does not operate a renew grace period for the RAE.

- **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. Four 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 renew grace period provided by the registrar to the RAE. In certain cases, the registration is put up for auction after a certain period of time, e.g. 25 days or 30 days after 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.

- **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, provided by registrars to registrants varies from zero (one registrar) to 30, 35, 40 and 42 days.

▪ **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). 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.

- **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 our office 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
<b>Total</b>	<b>7263</b>

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” is also a stand-alone category (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 will review these registrar’s websites in early January 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

## 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, which might be different if someone acting on behalf of the Registered Name Holder has renewed the registration or the registration has been taken over by a third party.

### 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’.
- On discussion the possibility of a mandatory Auto-Renew 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 immediately charged 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.

- [Further information to be added as appropriate]

Potential Recommendations / Ideas for further consideration / discussion

- TBD

## **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. It was also noted that some of the provisions in registration agreements do not seem to match actual practice. As a result, 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 right 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.
- [Further information to be added as appropriate]

Potential Recommendations / Ideas for further consideration / discussion

- TBD

### 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 ‘thin1’ 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% of renew due to a reminder

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<sup>1</sup> 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.

from their registrar, 25% believe their domain names renew automatically and 7.3% renewed after receiving reminders from Nominet.

Potential Recommendations / Ideas for further consideration / discussion

- Revise Whois information displayed in relation to expiration so that it is clear for registrant which status the registration has.

**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)**

- [Further information to be added as appropriate]

Potential Recommendations / Ideas for further consideration / discussion

- TBD

**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.

Potential Recommendations / Ideas for further consideration / discussion

- TBD

## 8. 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.

### 8.1 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](#)).

### 8.2 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

### 8.3 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.



## 9. 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 ([gns0-pednr-dt@icann.org](mailto:gns0-pednr-dt@icann.org)) with public archives at: <http://forum.icann.org/lists/gns0-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

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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).

## Annex C – Registrar Survey Questions and Responses

To be completed