

ALAC “Constituency” statement regarding the PDP on Domain Tasting

Overview:

The ALAC advocates any and all actions that will *quickly* eliminate domain tasting. There has been much discussion on this issue in the RALOs and on the general At Large discussion list. Although not all regions have been similarly active, the preponderance of views to date favour the complete elimination of the AGP.

Rationale:

While the AGP had legitimate roots, the reduction in domain name pricing combined with better registrar software eliminates this need.

Preamble:

The At Large Advisory Committee (ALAC) is pleased to have been asked to submit a statement regarding the newly launched GNSO Policy Development Process (PDP) on Domain Tasting. The ALAC is not yet in a position to thoroughly vet such positions through the Regional At large Organizations (RALOs) and At large Structures (ALSs) but this statement has included significant input from the some RALOs, ALAC members and the At Large community. As work proceeds on the PDP, additional input will be sought from these groups.

Domain tasting is the use of legitimate ICANN-approved processes to register a domain, test if there is any substantial traffic (perhaps because it was recently in use by someone else or is similar to another regularly used domain), and if not, cancel the registration within five days at no net cost to the registrant - an Add Grace Period (AGP) delete.

Domain Tasting and the PDP:

The issue of domain tasting has been regularly been discussed since the phenomena began in 2005 – and with good reason. In January 2005, before the practice was common, for .com and .net, there were about 1.7 million domains registered and 0.7 million domains deleted for a net increase of 1.0 million domains. By the end of that month, there were just over 40 million total domains registered.

Two years later, at the end of January 2007, the total number of domains had increased by 78% to 72 million domains. However, in January 2007, there were 51 million domains registered and 48 million domains deleted. That is, there was a net increase of 3 million names, but most of the rest were just being “tasted”.

In the period since January 2007, the practice has grown even more. Although the practice is relatively widely used, the majority of tasting was being done by just three registrars, all of which have the same address, telephone number and formation date.

The AGP was originally created to allow domain names that had been accidentally registered to be cancelled. Although a legitimate requirement at the time, the

reduction in domain name pricing and better registrar software eliminates any substantive requirement for the AGP as it was originally envisioned. Moreover, many registrars and resellers do not even pass this benefit on to registrants. It was and is the position of the ALAC that the domain tasting enabled by the AGP is both inappropriate and harmful and should be eliminated with due haste.

To this end, the ALAC initiated the formal investigation of domain tasting by requesting that ICANN develop an Issues Report. This was done with the support of several GNSO constituencies. Ultimately, the Issues Report was delivered to the GNSO and it included staff agreement that this was indeed an ICANN policy issue. At the ICANN meeting in Los Angeles, the GNSO decided to undertake a PDP with the intent of further understanding the effects of domain tasting and if appropriate, recommend measures to impede domain tasting.

The ALAC is not only pleased that the GNSO has taken this action, but is particularly pleased that the action was taken with a 72% vote where only >33% was required to initiate a PDP. This indicated wide GNSO constituency support for *some* action. Although each constituency may have different reasons for supporting the process, it is nonetheless encouraging that the end target is the same.

The GNSO has chosen to solicit constituency statements and most likely will create one or more working groups to further investigate domain tasting.

From the ALAC's perspective, our main concerns were raised in the request for the Issues Report and with the possible exception of the reference to Facilitation of Criminal Activity, the positions remain valid. Specifically:

- Destabilization of the Domain Name System due to volume and rate of domain name adds and deletes;
- Creation of consumer confusion undermining confidence in the Domain Name System;
- Increased costs and burdens to legitimate registrants;
- Facilitation of Trademark Abuse which also leads to consumer confusion.

ALAC Position:

The ALAC advocates any and all actions that will *quickly* eliminate domain tasting. Whilst at this stage there is no unilaterally supported view from all the RALOs at least one RALO (North America) and several ALAC members formally and strongly advocate complete elimination of the AGP, as the optimal way forward.

The ALAC and RALOs have taken the opportunity to consult their user communities over the last several weeks. Active discussion resulted and opinions varied ranging from the North American RALO position that the AGP is not beneficial to the public good and should be abolished, through to the Latin American and Caribbean RALO and the Asia Pacific RALO positions (as given in previous regional statements) where they respectively stated that "action to control the practice [of domain tasting] may be

necessary” and that “the effectiveness of economic tools should be investigated, such as has been successfully used in the PIR.”

ALAC does recognize that there are other actions which could lead to the effective elimination of domain tasting including:

- Application of a registry-charged fee for all AGP uses. The fee would need to be set to effectively eliminate tasting and not just change the dynamics of it.
- Application of a registry-charged fee if AGP uses exceed some threshold per month (this is effectively what PIR did). The fee could be as much as the full cost of the domain. The threshold would need to be set to catch domain tasters but to not cause perceived pain to registrars who use the AGP for legitimate, non-tasting purposes. Similarly, the fee would need to be set to effectively eliminate tasting and not just change the dynamics of it.
- ICANN currently charges registrars \$0.20 per domain added excluding AGP deletes (actually \$0.25 decreased this year by \$0.05). The exclusion could be removed in the next budget (or perhaps even sooner). Alternately, it could be removed only if a threshold of AGP uses were reached (there is already an AGP threshold used in a different registrar fee, so the mechanism is there). It is unclear if this fee would be sufficient to eliminate domain tasting, but it would almost surely alter the phenomena.
- The RAA could be altered to change the clause stating that registrars cannot activate a domain unless they have a reasonable expectancy of being paid (3.7.4) to a clause which requires them to have a reasonable expectancy of being paid AND keep the money.

The ALAC recognizes that some of the possible methods of attacking domain tasting may not require GNSO action at all, but rather may be effected by independent action of one or more parties. Such actions are encouraged. However, until such actions are actually taken and prove effective, the GNSO is encouraged to begin policy development on the issue.

The ALAC will support the PDP in whatever ways are most productive to better understand the impacts of domain tasting and to eliminate it in the shortest possible time-frame. Should working groups be formed, the ALAC would welcome participation.

Endorsed by the ALAC on December 5th, 2007

Transmitted on behalf of the ALAC to the GNSO via email by Alan Greenberg
December 5th, 2007