

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.

Registrars prefer to submit their input without specific attribution to individual Registrar Constituency ("RC") Members. The opinions expressed by the RC in this Constituency Input Template should not be interpreted to reflect the individual opinion of any particular RC Member.

- Please describe the process by which your constituency arrived at the perspective(s) set forth below.

Registrars were asked for input on this PDP. Replies were collected and integrated by the

RC's Advocate for use in this document.

Registrars, following advice by anti-trust experts inside and outside the ICANN community, have not and will not discuss anything relating to service pricing.

Questions

Please provide your constituency's views on:

1. Whether adequate opportunity exists for registrants to redeem their expired domain names;

Yes. Adequate opportunity exists.

One of ICANN's original core mandates was (and still is) the promotion of innovation and competition in the domain name marketplace; this mission has been well fulfilled. Hundreds of registrars compete to win business from customers around the world and devote significant business resources to attracting and retaining those customers.

Accordingly, it is critical to registrars that customers' needs be constantly anticipated and met, including encouraging renewal of domain name registrations and other products or services. As a practice, registrars encourage registration renewal before and after expiry. Further, while it is not required, most registrars provide a grace period following expiry in the event a registrant still wants to renew. The grace period varies in length, and in some instances is as long as 45 days. Compared to most term-based products or services, this practice is fairly unique.

It is very important to note that unintentional non-renewal of a name is very rare. However, when this does occur, often the registrar is able to help the customer recover the name through a variety of means.

2. Whether expiration-related provisions in typical registration agreements are clear and conspicuous enough;

As a general practice, registrars keep their terms and conditions (including expiration-related provisions) up-to-date and in good order. They are clearly presented to customers during the registration process, and registrants certify that they have reviewed and agree to terms as a condition of registering a name. As required by the Registrar Accreditation Agreement and the Expired Domain Deletion Policy, terms and conditions are maintained on registrar web sites. Moreover, they usually are accessible by a link from every page on the site.

Registrars endeavor to use clear and understandable language whenever possible in the context of presenting a valid legal agreement.

3. Whether adequate notice exists to alert registrants of upcoming expirations;

Again, most registrars, if anything, over-notify their customers of pending expiration. Registrars who responded to this inquiry reported emailing up to seventeen notices of expiration beginning as early as 90 days prior to the expiry date and continuing into the post-expiry period. Some registrars even supplement their email notification efforts with notice by direct mail and/or telephone.

It should be noted that it is important that registrants be good stewards of their names. This includes maintaining accurate WHOIS contact information as required by ICANN and registrars' service agreements. If a domain name is a critical asset, registrants would presumably take measures to be sure the registration is properly monitored and renewed.

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);

This is unnecessary. Most registrars provide notice that a domain name has expired, and include a link to renew the name. It is highly unlikely that additional measures would encourage renewals when previous notices have not.

5. Whether to allow the transfer of a domain name during the Redemption Grace Period (RGP).

That proposal is complicated and may be better addressed under the Inter-Registrar Transfer Policy (IRTP) PDP process. Under current rules, a registrant may redeem a name during RGP only via the registrar where the name has been immediately previously registered. The registrant of course has the option to transfer the name after a brief time following redemption. These rules were designed to provide a measure of security and protection against unauthorized transfers. Any potential policy change could result in unintended consequences and would need to be studied carefully.

Additional note from the Registrar Constituency

Registrars find it very unusual that during a time of so many competing priorities, valuable time and resources are being given to consideration of a policy that apparently is in search of a problem. 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. ICANN is not, and should not be, in the business of trying to identify and protect against every possible harm, no matter how frequently or infrequently they may occur.

ICANN has encouraged competition and innovation in the domain name marketplace. That core value should be free of interference. While some may not care for certain results of marketplace innovation, selective regulation of a successful marketplace would undoubtedly have unanticipated and unintended consequences. The ICANN community cannot encourage competition and innovation, then seek to regulate it without clear evidence of harm.

No ICANN policy or registrar practice can provide full insurance against unintentional loss of a

registration, or against the potential bad faith behavior of a registrar or reseller. Even if a new policy or mandated procedure is put into place, whatever low level of unintentional loss or non-compliance exists today will very likely continue at the same level.

Registrars ask that the community be aware of and respect the fact that they are operating businesses in a highly competitive marketplace, and are facing multiple potential changes to those businesses, sometimes by the whims of the community. Each change is disruptive and removes resources from important areas of the business and, over time, may even detract from registrars' ability to (at minimum) participate in community discussion or even, over time, continue as a functioning business.

Accordingly, registrars ask that rather than assumptions being made and policy developed on those assumptions, the community work with registrars to develop the least invasive methods for achieving a hoped-for outcome. In this instance, 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.