

*Disclaimer: This summary is not a full and complete recitation of the relevant comments received. It is an attempt to capture in broad terms the nature and scope of the comments. This summary has been prepared in an effort to highlight key elements of these submissions in an abbreviated format, not to replace them. Every effort has been made to avoid mischaracterizations and to present fairly the views provided. Any failure to do so is unintentional. The comments may be viewed in their entirety at <http://forum.icann.org/lists/pednr-proposed-final-report/>.*

## **Summary and analysis of public comments for the Post Expiration Domain Name Recovery Proposed Final Report**

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### **I. BACKGROUND**

The GNSO Post-Expiration Domain Name Recovery (PEDNR) Policy Development Process (PDP) Working Group was tasked to address questions in relation to what extent registrants should be able to renew their domain names after they expire. At issue is whether the current policies of registrars on the renewal, transfer and deletion of expired domain names are adequate. The PEDNR Working Group published its proposed Final Report on 21 February 2011.

In the Proposed Final Report, the WG has reviewed current registrar and ICANN practices regarding domain name expiration, renewal, and post-expiration recovery. In addition, the Report contains fourteen (14) recommendations to address the five charter questions it was assigned, including amongst others:

- Providing a minimum of eight days after expiration for renewal by registrant.
- Having unsponsored gTLDs and registrars offer Redemption Grace Periods (RGP).
- Requiring posting of fees charged for renewal; requiring that at least two notices prior to expiration are sent at set times, one after expiration; that an expired website must explicitly say that registration has expired, and offer instructions on how to redeem the domain.
- Development of educational materials about how to prevent unintentional loss.

Following review of the public comments received, the PEDNR Working Group intends to finalize its report for submission to the GNSO Council.

### **II. CONTRIBUTIONS**

#### **Public Comment Forum**

Ten (10) community submissions have been made to the public comment forum. The contributors are listed below in alphabetical order (with relevant initials noted in parentheses):

At-Large Advisory Committee (ALAC)  
 Charles Mason (CM)  
 Commercial & Business Users Constituency by Steve DelBianco (CBUC)  
 G.P. Singh (GS)  
 INTA Internet Committee by Claudio Di Gangi (INTA)  
 Intellectual Property Constituency by J. Scott Evans (IPC)  
 Michael Schout (MS)  
 Pieter van Ieperen (PI)  
 Registrar Stakeholder Group by Clarke Walton (RrSG)  
 Registries Stakeholder Group by David Maher (RySG)

### III. SUMMARY & ANALYSIS

	Comment	Who/Where
<b>General Comments</b>		
1.	Certain recommendations listed in the Report require clarification and/or refinement before they can adequately address the identified concerns.	IPC
2.	The report misses a clear statement that during the Auto-Renew Grace Period and Redemption Grace Period a registrar has no right to transfer a domain name to another registrant without the explicit consent of the RNHaE at the time of transfer (exceptions may apply for arbitration and judicial orders).	PI
3.	The ALAC supports most of the recommendations, but not all of them (see recommendation #2). In addition, it believes that some recommendations are missing from the report (see hereunder).	ALAC
4.	Resellers have often been associated with renewal problems raised by Registered Name Holders. The ALAC finds it unfortunate that the WG did not address this issue directly because at the present moment, not incorporating reseller problems leaves recommendations open for gaming.	ALAC
5.	There is great value in moving forward with standardization of the overall process involving PEDNR, but the cost of such actions toward standardization should not be procedures that fail to adequately protect the rights of consumers and brand owners. As such, certain recommendations in the Report require further detail and clarification.	INTA
6.	The RrSG supports the Final Report of the PEDNR PDP WG as it currently stands. The RrSG notes that it is its position that all 14 recommendations in the PEDNR Final Report are inter-dependent and should therefore be considered and adopted as a group by	RrSG

	the GNSO Council.	
7.	This section in the report implies that if the registration is deleted during the Auto-Renew Grace Period, the registrar is absorbing the extra costs from the auto-renewal charge following expiration. This should be clarified, because the registrar either (a) never charges the registrant in the first place, or (b) is reimbursed by the registry if the registrar deletes the domain during Auto-renew Grace Period and reimburses the registrant.	RySG
<p><b>Charter Question 1 – Recommendation #1</b> Define “Registered Name Holder at Expiration” (RNHaE) as the entity or individual that was eligible to renew the domain name registration immediately prior to expiration. If the domain name registration was modified pursuant to a term of the Registration Agreement authorizing the modification of registration data for the purposes of facilitating renewal, the RNHaE is the entity or individual identified as the registrant immediately prior to that modification.</p>		
8.	The definition of RNHaE must be revised to reflect that the registrant of the domain name registration does not include a registrant that has lost a Uniform Rapid Suspension (‘URS’) proceeding. Such suspended domain names should follow a different set of processes.	IPC
9.	Support for this recommendation, but INTA notes that the second definition provided is less clear and therefore recommends clarifying the applicability of the second definition of RNHaE or the supporting rationale.	BC, ALAC, INTA
<p><b>Charter Question 1 – Recommendation #2</b> For at least 8 consecutive days, at some point following expiration, the original DNS resolution path specified by the RNHA E, at the time of expiration, must be interrupted and the domain must be renewable by the RNHA E until the end of that period. This 8-day period may occur at any time following expiration. At any time during the 8 day period, the Registered Name Holder at Expiration may renew the domain with the Registrar and the Registrar, within a commercially reasonable delay, will cause the domain name to resolve to its original DNS resolution path. Notwithstanding, the Registrar may delete the domain at any time during the Auto-renew grace period.</p>		
10.	A minimum of 12 working days should be given after expiration when the RNHaE can renew.	GS
11.	If registrars are going to be required to hold domains for 8 days past expiration, then registries should not be allowed to collect auto-renewal fees until this 8 day period ends.	MS
12.	The IPC agrees with this recommendation, but notes that it would appear reasonable to modify the floating 8-day term into a strict and easily identifiable term for the RNHaE.	IPC

<b>13.</b>	The recommendation should be revised to reflect that for a domain name suspended under the URS, the informational web page need not be interrupted or is exempt from this recommendation.	IPC
<b>14.</b>	DNS interruption for only 8 consecutive days, at a random point in time after expiry, will create confusion instead of warning to the RNHaE. DNS interruption should start at expiry, continue through the whole Auto-Renew Grace Period, whole RGP, until the RNHaE renews or restores.	PI
<b>15.</b>	DNS interruption should be defined as total internet service interruption except for an informational web page (only one IP on which on port 80/443 is active).	PI
<b>16.</b>	Why should a registrar have the right to delete a domain at any time during the Auto-Renew Grace Period? Why not only in the last 5 days of that period?	PI
<b>17.</b>	The BC supports this recommendation, with the exception that the 8-day period should be extended to 30 days.	BC
<b>18.</b>	The ALAC commends the overall intent of the recommendation, but given that most registrars already offer a 30-40 day period, the ALAC strongly believes that the recommendation should guarantee no less than 30 days. Setting this guaranteed minimum to 8 consecutive days has the potential to be highly detrimental to users. It is unreasonable, especially considering the fact that prior to Registrars creating the post-expiration domain name re-assignment process, all Registered Name Holders had between 30 and 75 days to renew.	ALAC
<b>19.</b>	Request for clarification: the beginning of the 8 day period is not specified, rather stating that the period is at some point following expiration. Secondly,	INTA
<b>20.</b>	Request for clarification: the timeframe in which the registrar must have the domain resolve to its original DNS path is not specified, just stated 'within a commercially reasonable delay'.	INTA
<b>21.</b>	The recommendation fails to spell out the meaning of the 'original DNS resolution path', raising the question, at what point is the domain owner allowed to modify that DNS path.	INTA

<b>Charter Question 1 – Recommendation #3</b> The RNHaE cannot be prevented from renewing a domain name registration as a result of WHOIS changes made by the Registrar that were not at the RNHaE’s request. [Final wording will need to exempt cases where renewal will not be disallowed due to fraud, breach of registration agreement or other substantive reasons.]		
22.	Support for this recommendation.	IPC, BC, ALAC
23.	WHOIS contact data after expiry must be the same as before expiry, so everyone can see who has to be warned about the expiration.	PI
24.	Modify this recommendation so that it is clear that the renewal is in the name of the RNHaE, not the registrar or a third party.	INTA
<b>Charter Question 1 – Recommendation #4</b> All unsponsored gTLD Registries shall offer the Redemption Grace Period (RGP). For currently existing unsponsored gTLDs that do not currently offer the RGP, a transition period shall be allowed. All new gTLDs must offer the RGP.		
25.	The IPC agrees with this recommendation, but believes it should be revised to also recommend a standardized RGP implementation across all gTLDs (as the report notes that implementation details vary for RGP in different gTLDs).	IPC
26.	Recommendation #4 should be expanded to clarify the intent of the references to “sponsored” and “unsponsored” as such categorization no longer exists in the Applicant Guidebook for new gTLDs.	RySG
27.	Support for this recommendation.	BC, ALAC
28.	There is no requirement that the RGP be a standard time frame. Having the RGP time period and process at the discretion of the Registrar is likely to cause confusion to the consumer. INTA proposes that the RGP should be the same across all registrars and inquire as to whether there is a reason why it should only apply to unsponsored TLDs.	INTA
<b>Charter Question 1 – Recommendation #5</b> If a Registrar offers registrations in a gTLD that supports the RGP, the Registrar must allow the Registered Name Holder at Expiration to redeem the Registered Name after it has entered RGP.		
29.	Support for this recommendation.	IPC, BC, ALAC
30.	The same should apply to the Auto-Renew Grace Period, for example as follows: ‘If a Registrar offers registrations in a gTLD that supports the Auto-Renew Grace Period, the Registrar must allow the RNHaE to renew the Registered name until 5 days before the end of that period’.	PI
31.	This feature would benefit the domain holder if the domain holder is not required to pay the RGP fee in addition to the PEDNR fee.	INTA

<b>Charter Question 2 – Recommendation #6</b> The registration agreement must include or point to any fee(s) charged for the post-expiration renewal of a domain name. If the Registrar operates a website for registration or renewal, it should state, both at the time of registration and in a clear place on its website, any fee(s) charged for the post-expiration renewal of a domain name or the recovery of a domain name during the Redemption Grace Period.		
<b>32.</b>	The IPC agrees with this recommendation, but would further suggest that Registries and Registrars are prohibited from using, even if disclosed, a pricing model based upon an auction or similar transaction whereby the RNHaE’s price is subject to the demand of third-parties bidding on the domain name.	IPC
<b>33.</b>	ICANN must limit the fees for post-expiration renewal and post-delete restoration.	PI
<b>34.</b>	Support for this recommendation.	BC, ALAC, INTA
<b>Charter Question 2 – Recommendation #7</b> In the event that ICANN gives reasonable notice to Registrar that ICANN has published web content providing educational materials with respect to registrant responsibilities and the gTLD domain life-cycle, and such content is developed in consultation with Registrars, Registrars, who have a web presence, shall provide a link to the webpage on any website it may operate for domain name registration or renewal clearly displayed to its Registered Name Holders at least as clearly as its links to policies or notifications required to be displayed under ICANN Consensus Policies.		
<b>35.</b>	Support for this recommendation, but suggestion that the WG should also recommend that registrars be required to include a reasonable prominent link to the “Domain Life-Cycle” document in question within renewal reminder emails to registrants.	IPC, INTA
<b>36.</b>	Support for this recommendation.	BC, ALAC
<b>Charter Question 2 – Recommendation #8</b> ICANN, with the support of Registrars, ALAC and other interested parties, is to develop educational materials about how to properly steward a domain name and how to prevent unintended loss. Once developed, Registrars are expected to link to or host that information on its web site, and send to the registrant in a communication immediately following initial registration as well as in the mandated annual WHOIS reminder. Such information should include a set of instructions for keeping domain name records current and for lessening the chance of mistakenly allowing the name to expire. [Need to refine wording: expression “include a set of instruction“ to include pointing to appropriate location where instructions can be found; pointing to ICANN registrant education site.]		
<b>37.</b>	Support for this recommendation, but proposal that the recommendation should be revised by deleting the wording “are expected to” and inserting the term “must” instead.	IPC, INTA
<b>38.</b>	Support for this recommendation.	BC, ALAC
<b>39.</b>	In relation to the bracketed wording, to ensure	INTA

	consistency and that best practices are updated, it would be best to have registrars include a link to a web page at the ICANN site as opposed to their linking to their versions of the document.	
<b>Charter Question 2 – Recommendation #9</b> The registration agreement and Registrar web site (if one is used) must clearly indicate what methods will be used to deliver pre- and post-expiration notifications, or must point to the location where such information can be found. What destination address/number will be used must also be specified, if applicable.		
40.	Support for this recommendation.	IPC, BC, ALAC, INTA
41.	INTA suggests that the notification method explanation should include a suggestion that registrants save the registrar’s notification email address as a ‘safe sender’ to avoid notification emails being blocked by spam filter software.	INTA
<b>Charter Question 3</b>		
42.	A third party should be required to provide notice to a registrant of any and all rules applicable to the domain transfer by the registrant at any point during the registration period.	CM
<b>Charter Question 1 – Section 7 Deliberations of the WG</b>		
43.	The RySG representative suggested that a WHOIS indication of ‘Auto-renew grace period’ was feasible. While it is not as clear as might be desired, the suggestion was an improvement in consistency across WHOIS implementations. Furthermore, it should be noted that the complexity in adjusting WHOIS to address this issue involves (a) coordinating relevant EPP adjustments to reflect these additional clarifications, and (b) a lack of standardization in existing WHOIS standards.	RySG
<b>Charter Question 3 – Recommendation #10</b> Subject to an Exception policy, Registrar must notify Registered name Holder of impending expiration no less than two times. One such notice must be sent one month or 30 days prior to expiration (±4 days) and one must be sent one week prior to expiration (±3 days). ). If more that two alert notifications are sent, the timing of two of them must be comparable to the timings specified. It is the intention to have an exception policy, allowing the Registrar to substitute alternative notification patterns, but this still needs to be defined.		
44.	Support for this recommendation, but the IPC notes it has no opinion with regard to the proposed exception policy.	IPC, BC, ALAC, INTA
45.	Allowing exceptions for registrar business models that do not allow for the notification timeframes suggested in this recommendation is acceptable in theory, but needs further fleshing out as to application.	INTA

<b>Charter Question 3 – Recommendation #11</b> Notifications of impending expiration must include method(s) that do not require explicit registrant action other than standard e-mail receipt in order to receive such notifications.		
<b>46.</b>	Support for this recommendation.	IPC, BC, ALAC, INTA
<b>Charter Question 3 – Recommendation #12</b> Unless the Registered Name is deleted by the Registrar, at least one notification must be sent after expiration.		
<b>47.</b>	The IPC agrees with this recommendation, but suggests that the recommendation be revised to state that any such post-expiration notice must contain explicit information setting forth the proper procedure for the RNHaE to renew the domain name.	IPC
<b>48.</b>	Support for this recommendation.	BC, ALAC
<b>49.</b>	INTA recommends that the final notification sent by a registrar prominently indicate “FINAL NOTICE” to make clear that it is the registrant’s final opportunity to recover the domain name.	INTA
<b>Charter Question 4 – Recommendation #13</b> If at any time after expiration when the Registered Name is still renewable by the RNHaE, the Registrar changes the DNS resolution path to effect a different landing website than the one used by the RNHaE prior to expiration, the page shown must explicitly say that the domain has expired and give instructions on how to recover the domain. [Wording must make clear that “instructions” may be as simple as directing the RNHaE to a specific web site.]		
<b>50.</b>	The IPC agrees with the rationale of this recommendation, but would caution that the landing website should not be permitted to be additionally used for advertising purposes, click-through monetization or otherwise generating traffic to the benefit to the registrar, affiliates or third parties.	IPC
<b>51.</b>	Support for this recommendation. In addition, INTA suggests that the Registrar include a link on the changed page to connect to the renewal site for the domain name.	BC, ALAC, INTA
<b>Charter Question 4 – Recommendation #14</b> Best Practice for Registrars: If post-expiration notifications are normally sent to a point of contact using the domain in question, and delivery is known to have been interrupted by post-expiration actions, post-expiration notifications should be sent to some other contact point associated with the registrant if one exists.		
<b>52.</b>	Support for this recommendation.	IPC, BC, ALAC, INTA
<b>53.</b>	In addition, ALAC recommends that a secondary point of contact should be supplied by all potential registered name holders during their registration process. This should be systematic and mandatory for all registrations.	ALAC
<b>54.</b>	Notification should be sent to all other points of contact associated with the registrant if more than	INTA

	one other alternative point of contact exists in the record.	
<b>Charter Question 5</b> No recommendation.		
<b>55.</b>	The registrant should be able to transfer the domain to another registrar during the RP. The main reason for this is to enable a registrant to move a domain if it is not satisfied with the service provided or differences in price for the renewal.	CM
<b>56.</b>	Given the rationale provided, the RySG is of the opinion that there should be a proactive recommendation that transfers during the RGP process are not permitted.	RySG
<b>57.</b>	The BC supports no action at this time.	BC

#### **IV. NEXT STEPS**

The Post-Expiration Domain Name Recovery Working Group is expected to consider all the relevant comments and feedback received as part of their deliberations and efforts to finalize the report for submission to the GNSO Council.