Post Expiration Domain Name Expiration Recovery

WG - Initial Report

Commercial & Business Users Constituency Position Statement

GNSO//CSG//BC

Status: Draft
Version: 0.3
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Position Statement:

The Commercial Users & Business Constituency (BC) would like to thank the GNSO for initiating a PDP for evaluating the post expiration of generic domain names. We also applaud the efforts of the working group, their voluntary contributions as peer stakeholders, and their teamed development of the Initial Report. Much of the BC position from the initial public comment period remains intact as outlined in the position statement form submitted November 2009. However, we welcome the opportunity to provide refinement to the BC position based on the results submitted by the WG's Initial Report.

The BC has long advocated that all registrants, both businesses and individuals, require openness, transparency, and predictability in connection to the expiration of domain names. The Constituency believes there is adequate opportunity for registrants to recover a domain name after expiration. However, the BC also takes the position that inconsistencies within the expiration phase of the domain lifecycle lead to market confusion and in some cases create unfair market conditions that ultimately fail to uphold the practice of maintaining openness and transparency. Appendix 1, as reviewed by members of the PEDNER WG, begins to document the complexity of expiration process. This process is far from complete, but the intent is to provide a view of the inconsistencies Registrants face today. Therefore, the BC agrees promotion of consistency where feasible enhances fair competition and right-sizes business practice within the market without affecting differentiation among competitors. The BC also concurs with other Constituency positions that failure to maintain accurate WHOIS is a leading culprit to expiration alert notification failure and we are interested in solutions to resolve this issue. Lastly, the BC advocates the creation of consumer education, perhaps ICANN sponsored, around the expiration of domain names and looks forward to solutions for disseminating the knowledge.

The following chart details the BC Position and is aligned to the survey results from the PEDNER WG. "Column A, PEDNER Survey Concept" contains the eighteen questions/concepts listed in the survey and "Column C, BC Comment," contains the most selected answer to the questions in column A by BC members participating on the WG. The column C also includes a specific BC statement relative to that question/answer and it is *denoted in italics*. Please refer to page 33 of the PEDNER Interim Report for complete documentation, survey details, and polling results.

Agree & Comment	✔
Agree & Offer Suggestion	❗
Disagree & Offer Suggestion	✖

PEDNER Survey Concept	BC Rating	BC Comment
#1 Should the Registrant At Expiration (RAE) have the ability to recover his/her domain name registration following expiration for a certain amount of time? [Charter Question 1]	✔	**Survey Answer:** Change the Expired Domain Deletion Policy (EDDP) so that it incorporates the ability for every RAE to recover his/her domain name following expiration for at least a certain amount of time. **BC Position:** *The BC supports the notion that Consensus Policy should shape the Registrant's ability to recover domains post expiration via mechanisms that promote consistency and predictability of the process.*

PEDNER Survey Concept	BC Rating	BC Comment
#2 What should this minimum timeframe be during which the RAE has the ability to recover the domain name registration? [Charter Question 1]	✔	**Survey Answer:** • 30 – 39 calendar days **BC Position:** *The BC supports the notion that Consensus Policy should define the minimum timeframe and that duration should be around <u>one calendar month</u>*
#3 [Period Prior to Expiration] The current provisions in the RAA only make reference of a second notice – "3.7.5 At the conclusion of the registration period, failure by or on behalf of the Registered Name Holder to consent that the registration be renewed within the time specified in a second notice or reminder shall, in the absence of extenuating circumstances, result in cancellation of the registration by the end of the auto-renew grace period (although Registrar may choose to cancel the name earlier)." Is this provision sufficiently clear? [Charter Question 3]	✔	**Survey Answer:** Revise the language in provision 3.7.5 or elsewhere in the RAA to clarify this provision and explicitly say that at least 2 notices are required to be sent prior to expiration. **BC Position:** *The BC agrees that RAA provisions wrt to expiration notices sent to the Registrant should be clearer and reduce the spectrum of interpretation.*
#4 Should further details be provided on when these notices are sent? If yes, what further details would facilitate transparency and information, while at the same time not restricting registrars from taking additional measures to alert registrants? [Charter Question 3]	✔	**Survey Answer:** At a minimum, one message must be sent one month (+ one week) prior to expiration and one message must be sent one week (+ three calendar days) prior to expiration. **BC Position:** *The BC supports the notion that Consensus Policy should standardize when expiration notices are sent at a minimum.*

PEDNER Survey Concept	BC Rating	BC Comment
#5 Should further details be provided on how these notices are sent? If yes, what further details would facilitate transparency and communications, while at the same time not restricting registrars from taking additional measures to alert registrants? [Charter Question 3]	❗	**Survey Answer:** Recommend that the RAA be amended to: State clearly in the registration agreement and (for web-based registrations / renewals) on the web site exactly what communications method(s) will be used. **BC Position:** *The BC agrees that Consensus Policy should define how Registrants will be notified for all types of communications relative to Registration of the domain name. Proper notification will aid in setting expectation and importance to keep contact data up to date.* *The BC suggests that this concept be further explored & better defined given the options available. Caution should be used to not restrict innovative methods for communications with customers.*
#6 Should additional measures be implemented to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders? If 'yes', what kind of measures should be explored? [Charter Question 3]	❗	**Survey Answer:** a1) Recommend the implementation of additional measures to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders. Such notifications should occur at the time of domain registration, and domain renewal. For web-based access, require positive acknowledgement from registrant that inaccurate or insufficient contact information could lead to loss of domain at expiration time. a2) Recommend the implementation of additional measures to ensure that registrants are aware that if their contact information is not up to date, they most likely will not receive notices / reminders. Such notifications should occur at the time of domain registration, and domain renewal. For web-based access, Registrar must link to ICANN tutorial of importance of accurate contact information. **BC Position:** *As noted in the summary prior to this chart, the BC understands that inaccurate contact information is the leading culprit for Registrants not being made aware of pending expiration of their domains. Therefore, the BC agrees that Consensus Policy should define minimum standards to increase Registrant awareness of consequence by not maintaining up to date information.* *The BC suggests that this concept be further explored & better defined by the WG, noting that in addition to CP, <u>consumer education</u> is a critical component to improving accurate contact information. Caution should be used to not restrict innovative methods for communications with customers and the WG should leverage existing WHOIS efforts.*

PEDNER Survey Concept	BC Rating	BC Comment
#7 Should Whois status messages related to expiration be clarified / changed to avoid confusion over when a domain name registration expires / has been renewed by the registry? [Charter Question 3]	✔	**Survey Answer:** Recommend that Whois status messages related to expiration be clarified to avoid confusion over when a domain name registration expires. **BC Position:** *The BC supports changes to WHOIS status messages and the WG should leverage other WHOIS efforts where possible to achieve this.*
#8 Are notices post-expiration required? [Charter Question 3]	✔	**Survey Answer:** In cases where there is an opportunity for the RAE to renew a domain post-expiration, require post-expiration notice(s). Such notice must include details of how the name can be recovered including the applicable time-constraints. At least 1 post-expiration reminder **BC Position:** *The BC believes this concept is tightly coupled to the concept of making RGP Consensus Policy (see #16 & #17). During any duration of an RGP as a standard, efforts to confirm with the Registrant their intent to let the domain expire should be made. Therefore at a minimum one notification post expiration completes an expiration notification lifecycle (2 notices before & 1 after domain expiration).*
#9 How should an HTTP (port 80) request using the expired domain name resolve? [Charter Question 4]	✔	**Survey Answer:** Recommend that URLs using the expired domain (and all subdomains) must not be allowed to resolve (directly or indirectly) to the original IP after expiration within several days after expiration (any such policy must consider defining "several days" more explicitly) **BC Position:** *The BC agrees that Consensus Policy should standardize how technical services are affected post expiration, as their disablement is the biggest "in your face" indicator to domain owners that there is an issue, especially where notification attempts fail. However, abrupt disruption of service is not an optimal solution for business owners. The BC supports the WG continued efforts to find the optimal solution.*

PEDNER Survey Concept	BC Rating	BC Comment
#10 How should e-mail directed at an address within the expired domain behave after expiration [Charter Question 4]	✔	**Survey Answer:** Require that within several days of expiration, e-mail destined for an address within the expired domain be either ignored (times out, be received and discarded) or bounced. (Any such policy must consider defining "several days" more explicitly) **BC Position:** *The BC agrees that Consensus Policy should standardize how technical services are affected post expiration, as their disablement is the biggest "in your face" indicator to domain owners that there is an issue, especially where notification attempts fail. However, abrupt disruption of service is not an optimal solution for business owners. The BC supports the WG continued efforts to find the optimal solution.*
#11 What should happen with non-web, non-e-mail services post expiration (i.e. should ICANN specify what happens to ALL IP ports, or just those specific to web and e-mail services)? [Charter Question 4]	✔	**Survey Answer:** Recommend that all services must cease functioning as they did pre-expiration within several days of expiration. (Any such policy must consider defining "several days" more explicitly) **BC Position:** *The BC agrees that Consensus Policy should standardize how technical services are affected post expiration, as their disablement is the biggest "in your face" indicator to domain owners that there is an issue, especially where notification attempts fail. However, abrupt disruption of service is not an optimal solution for business owners. The BC supports the WG continued efforts to find the optimal solution.*
#12 Should a RAE have the ability to request an Inter-Registrar Transfer after expiration?	✔	**Survey Answer:** Recommend that a registrar must facilitate the outgoing transfer of a domain post-expiration. Facilitation includes providing an effective mechanism for a RAE of an expired domain name to request an Auth Code; to have the domain unlocked, to restore the whois contents or whatever is required to allow a RAE to effect an Inter Registrar Transfer. **BC Position:** *The BC agrees that Consensus Policy should define the ability for the Registrant At Expiration to inter-registrar transfer the domain after expiration. It is understood that the Registrant has this ability today, if the Registrar honors the RGP. The BC recommends further analysis be performed before formal CP consideration.*

PEDNER Survey Concept	BC Rating	BC Comment
#13 Are you of the opinion that registrants understand and are able to find renewal and expiration related information easily? How can such understanding be improved? [Charter Question 2]	✔	**Survey Answer:** Recommend ICANN to put in place rules that mandate some level of clarity and predictability in registration agreements and related materials. Specifically the use of plain language contracts (where possible); use of explanatory notes, plain language (and interpreted text where relevant) registrant explanatory materials and/or primers; Informational and educational (self help) information sharing for increasing the knowledge of Registrants **BC Position:** *The BC agrees that Consensus Policy should be considered to promote consistency and predictability in Registration Agreements with respect to the expiration process. The BC does not believe plain language contracts are feasible in the current environment, but improvement opportunities exist in standard baselines of agreements. The BC also is a strong advocate for consumer related educational materials to increase Registrant knowledge and adoption.*
#14 Should the fee to be charged for renewal of a domain name after expiration be explicitly stated?	✔	**Survey Answer:** Modify the Expired Domain Deletion Policy (EDDP) to require that the web site should state, both at the time of registration or renewal and in a clear place on its web site, the fee for renewal of a domain name after expiration. **BC Position:** *The BC agrees that Consensus Policy should define standards around the expected fees of domain names post expiration.*
#15 Should information on where to find the cost for recovery after expiration be in the registration agreement? [Charter Question 1]	✔	**Survey Answer:** Modify the Expired Domain Deletion Policy (EDDP) so that information on where to find the cost for recovery after expiration is included in the registration agreement. **BC Position:** *The BC agrees that Consensus Policy should define standards around the expected fees of domain names post expiration.*

PEDNER Survey Concept	BC Rating	BC Comment
#16 Should the Redemption Grace Period be adopted as a consensus policy for gTLD Registries? [Charter Question 1]	✔	**Survey Answer:** Recommend the adoption of the RGP as a consensus policy for gTLD registries, possibly with an exception for some gTLDs if their policies do not allow for the deletion of a name without the explicit approval of the RAE. **BC Position:** *The BC agrees that Consensus Policy should require Registries to offer the RGP, thus making the expiration phase more predictable for consumers.*
#17 Should registrars be required to offer the Redemption Grace Policy for registries that offer it? [Charter Question 1]	✔	**Survey Answer:** Require registrars to offer the Redemption Grace Policy by adopting it as a consensus policy. **BC Position:** *The BC agrees that Consensus Policy should require Registrars to offer the RGP, thus making the expiration phase more predictable for consumers.*
#18 Should a transfer of a domain name during the RGP be allowed? [Charter Question 5]	✔	**Survey Answer:** Maintain status quo - A transfer of a domain name registration during RGP should not be allowed **BC Position:** *The BC agrees that status quo should be maintained.*

Conclusion:

In summary, the BC takes the position that Consensus Policy changes are required to correct issues within the domain expiration process. Per the concepts provided in the matrix above combined with a completed analysis of proposed Consensus Policy should achieve the openness, transparency, and predictability that the BC advocates for.

In addition to the BC position statements in the matrix above, we also believe the following concepts should be explored by the PEDNER WG:

- Adequate documentation of the expiration process (current & proposed) models
- Change confusingly-similar terms like "automatic renewal" vs. "auto renew grace period", as an example
- Provide consistent and informative domain-status flags across registries, registrars and TLDs
- Provide consistent "service disruption" across registrars on expiration (triggers active/technical response)
- Provide consistent notification/display of deletion, automatic-renewal, auto-renew grace-period and redemption grace-period policies on reseller/registrar web pages
- Provide consistent redemption grace-period intervals rather than leaving it up to provider discretion
- Provide consistent post-expiry implications when registrants elect not to automatically-renew domains and/or opt out of monetization of web addresses
- Shift all TLDs to thick-registry model to aid in normalizing WHOIS-based processes
- Evaluate any conflict of interest – registrar either generates revenue from renewal OR monetization/aftermarket-auction/drop-catching, not both

Business Constituency Support Stats:
- **Position Statement author:** Berry Cobb
- **BC Members on PEDNER:** (Mike O'Conner, Mike Rodenbaugh, Michael Palage, Phil Corwin, Berry Cobb)

BC Information with Regard to this Position Statement:

- Total # of eligible BC Members: 43
- Total # of BC Members: 43
- Total # of Active BC Members: 43
- Minimum requirement for supermajority of Active Members: 30
- Minimum requirement for majority of Active Members: 23
- # of Members that participated in this process: 3

Level of Support of Active Members: ***

- # of Members in Favor: XX
- # of Members Opposed: XX
- # of Members that Abstained: XX
- # of Members that did not vote: XX

*** The BC did not take a formal poll on this position and will await the PEDNR final report to complete formal requirements

Appendix 1 – Domain Expiration Process
<<next page down>>