

AGP Limits Policy - Implementing GNSO Recommendations

Staff Implementation Report

14 December 2009

Introduction

This report is the second Staff update to the GNSO Council on the implementation of its recommendations for the [Add Grace Period \(AGP\) Limits Policy](#). ICANN is committed to analyzing and reporting on the effects of the Policy to the GNSO at six-month intervals for two years after its implementation. The first Staff Implementation Report was issued on 10 June 2009. The purpose of these reports is “to allow the GNSO to determine when, if ever, these recommendations and any ensuing policy require additional clarification or attention based on the results of the reports prepared by ICANN Staff.”¹

Background

The AGP Limits Policy, an ICANN Consensus Policy, is the result of a GNSO Policy Development Process regarding Domain Tasting. This process concluded on 17 April 2008, with approval “by super majority vote a motion to discourage use of the ‘add grace period’ (AGP), where domains can be returned within five days without cost, for domain tasting.”² The GNSO motion and its recommendations were adopted by the ICANN Board on 26 June 2008.

ICANN announced this new Policy and its implementation on 17 December 2008 after consultations with gTLD registries and ICANN-accredited registrars, the constituencies affected by the Policy, and a public comment period that was open from 20 October 2008 through 20 November 2008.

In its first report to the GNSO, ICANN Staff reported that all TLD operators that are required to comply with the Policy have done so. The Policy also requires that TLD operators maintain specific information for each exemption request and that they provide it to ICANN within 10 days of the request. **At this time, all TLD operators that have processed exemption requests since the initial report are in compliance with the requirement to maintain and provide exemption request documentation.**

¹ This information from the 25 April 2008 GNSO Council Report to the Board is viewable at <http://gns0.icann.org/issues/domain-tasting/domain-tasting-board-report-gns0-council-25apr08.pdf>.

² Ibid

Monitoring Progress

This report contains information ICANN Staff committed to providing to the GNSO Council that could be used by the Council to assess the effectiveness of the Policy and to inform any future discussions or work it might conduct in response to outcomes of the implementation.

TLD Net New Registrations and AGP Deletes

The information in Exhibit 1 to this report presents the number of net new registrations and AGP deletes, on an aggregate basis for all Registrars, for the period 1 April 2009 through 31 August 2009, from each Operator. Prior to implementation of the Policy, AGP deletes across all TLDs was on the order of millions of names per month. Since the Policy went into effect in April 2009, the number of AGP deletes across all TLDs has held steady at around 55-65k names per month – approximately 0.3% of what it once was.³

History of Exemption Requests

Since the Policy went into effect in April 2009, there have been nine exemption requests reported for nearly 10,000 domains across the 15 gTLDs that offer an AGP in their TLD. The information in Exhibit 2 to this report presents the data points listed below for the requests that have been received and processed for the period 1 April 2009 through 31 August 2009. At this time, there have not been any recurring requests from any registrars. The relevant data points reported include:

- TLD
- Registrar name and IANA ID #
- Reason for request
- Number of names affected
- Disposition by the Operator (approved/denied) and their rationale

ICANN's Experience Implementing the Policy - Registrar Concerns About Treatment of Exemption Requests

The implementation of the Policy has been effective at curtailing domain tasting. As reported in ICANN's 9 August 2009 [announcement](#), domain tasting has been reduced by 99.7% since introduction of the Policy.

³ Information from more recent reporting periods is not available due to the confidentiality restrictions applied to registry reports supplied to ICANN (i.e., Registrar specific information could not be provided to the GNSO until 90 days after the latest applicable reporting period).

An element of the review of the implementation is to assess how the Policy has affected TLD operators and ICANN-accredited registrars. There have been three complaints from registrars following the denial of their exemption requests. Also, during the Registrars Stakeholder Group meeting in Seoul on 27 October 2009, one of these registrars voiced their dissatisfaction with the response they received from the TLD Registry responsible for reviewing their exemption request. In each complaint the registrar claimed that the “extraordinary circumstance” for their exemption request was fraud and the TLD operator’s response was that they “do not recognize fraud as an extraordinary event.” Of the nine reported exemption requests, six gave fraud as the basis of the request and four were denied.⁴

In the wake of these complaints, the TLD operator who had denied these four requests sought clarification about the appropriate interpretation of “extraordinary circumstances” and “reoccur regularly” referenced in the Policy. The Policy, developed by the GNSO Council, states that “*Acceptance of any exemption will be at the sole and reasonable discretion of the Operator, however ‘extraordinary circumstances’ which reoccur regularly for the same Registrar will not be deemed extraordinary.*” Further to the concept of clarifying the Policy, ICANN noted in its 17 December 2008 [announcement](#) of the new Policy:

“Several comments in the public forum sought additional specificity regarding the terms “extraordinary circumstance” and “reoccur regularly.” Absent community consensus in the public forum and previously during the GNSO Council deliberations on this matter, Staff has been reluctant to impose a more specific definition for either term. There is also Staff concern that more specificity could create safe harbors for parties who may be inclined to attempt to game the new Policy process. It is believed that initially retaining a more flexible approach to the exemption process for Operators is more likely to deter abusive practices. Moreover, the new Policy provides for future adjustments if it is determined that certain abusive behavior necessitates more defined terminology.”

Staff Summary and Analysis of the Policy Implementation

The success of the Policy is evidenced by the near elimination of domain tasting based on the dramatic reduction in excessive AGP deletes. As described in the preceding section, one implementation issue has been raised via registrar complaints about the processing of exemption requests and the decisions that have been rendered by TLD operators when fraud is the cited “extraordinary circumstance” for the exemption request.

A question the GNSO Council may wish to consider in the future is whether modifications to the Policy are necessary and/or appropriate given the results and

⁴ Two requests did not result in operator action as the registrar had not exceeded the AGP allowance.

community reaction to date. For example, should the GNSO Council consider defining the terms “extraordinary circumstances” or “reoccur regularly?” During the policy development process on domain tasting some community members suggested that the mitigation of instances of consumer fraud may be a legitimate use of AGP deletes. Additionally, if a registrar proactively takes down (i.e., deletes) domains that are known to propagate a fraudulent activity such as phishing, should the registrar bear the cost if the deletions cause the registrar to exceed the threshold defined in the Policy? The Council might consider:

- The 4 June 2007 [GNSO Issues Report on Domain Tasting](#) cites in Section 3.4, that one of the uses of the AGP is consumer fraud. Specifically, *“For example, if names are erroneously added at the registry, the fees can be refunded to the registrar if the names are deleted during the AGP. AGP may help registrars recover some losses from failed payment transactions or fraud cases, although many of these types of scenarios extend beyond the first five days of registration.”*
- The 4 October 2007 [GNSO Outcomes Report on Domain Tasting](#) cited that registrars believe one of the five (5) perceived benefits of the AGP is mitigating fraud impacts.
- The 4 April 2008 [GNSO Final Report on Domain Tasting](#) cites in Section 2.4.2. the Registry Constituency position that if the motion on domain tasting is approved as a consensus policy that, *“The add grace period will become effective for legitimate purposes, namely, to protect consumers, prevent fraud, and the other reasons that have been expressed to date by ICANN registrars. The RyC believes that charging a transaction fee on these legitimate, non-abusive deletions would be an unnecessary and unjustified tax on registrants.”*

In summary, the Policy continues to achieve its desired outcome and has significantly reduced abuse of the AGP. A question before the GNSO and the community is whether additional Policy work should be considered in the future to address the complaints now being raised by some registrars and the request for clarification by at least one TLD operator. ICANN staff is ready and available to support the GNSO.

Future ICANN Reporting Expectations

The next report will be provided to the GNSO in advance of the ICANN meeting in Brussels in June 2010 and will cover the period 1 September 2009 through 28 February 2010.

Exhibit 1

Net New Registrations, AGP Deletes and % Names Deleted per TLD
(March – August 2009)

TLD	March - Prior to Policy			April			May		
	Net New Reg.	AGP Deletes	% Deleted	Net New Reg.	AGP Deletes	% Deleted	Net New Reg.	AGP Deletes	% Deleted
.AERO	n/a (1)	n/a (1)	n/a (1)	n/a (1)	n/a (1)	n/a (1)	94	1	1.1%
.ASIA	2916	148	5.1%	3016	616 (2)	20.4%	2510	36	1.4%
.BIZ	47322	1382	2.9%	42945	988	2.3%	41912	761	1.8%
.CAT	841	177	21.0%	849	1	0.1%	838	0	0.0%
.COM	2368840	2721859	114.9%	2084868	37519	1.8%	2021929	39376	1.9%
.COOP	75	0	0.0%	61	0	0.0%	59	0	0.0%
.INFO	209303	25734	12.3%	217093	4460	2.1%	193271	3590	1.9%
.JOBS	145	205	141.4%	147	0	0.0%	167	0	0.0%
.MOBI	31919	916	2.9%	30453	5007 (3)	16.4%	28338	482	1.7%
.MUSEUM	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)
.NAME	3601	298	8.3%	2625	107	4.1%	6530	144	2.2%
.NET	342541	110899	32.4%	315453	6202	2.0%	311716	8045	2.6%
.ORG	197516	35573	18.0%	210492	2591	1.2%	172605	2746	1.6%
.PRO	1912	7	0.4%	1596	131	8.2%	1436	9	0.6%
.TEL	129509	952	0.7%	52584	419	0.8%	19207	100	0.5%
.TRAVEL	293	9	3.1%	352	2	0.6%	260	9	3.5%
Totals	3336733	2898159		2962534	58043		2800872	55299	

Notes

- (1) .AERO did not provide monthly reports until May 2009
- (2) .ASIA implemented the Policy on 1 May 2009 which resulted in higher than average AGP deletes in April
- (3) .MOBI implemented the Policy on 1 May 2009 which resulted in higher than average AGP deletes in April
- (4) .MUSEUM does not offer an AGP

TLD	June			July			August		
	Net New Reg.	AGP Deletes	% Deleted	Net New Reg.	AGP Deletes	% Deleted	Net New Reg.	AGP Deletes	% Deleted
.AERO	95	0	0.0%	70	0	0.0%	95	0	0.0%
.ASIA	2976	50	1.7%	2772	44	1.6%	2816	72	2.6%
.BIZ	40376	885	2.2%	38511	855	2.2%	40304	868	2.2%
.CAT	686	3	0.4%	718	3	0.4%	412	0	0.0%
.COM	1999639	43575	2.2%	2037927	35971	1.8%	2010759	44133	2.2%
.COOP	50	0	0.0%	64	0	0.0%	52	0	0.0%
.INFO	213135	9972	4.7%	246039	13998	5.7%	229521	7856	3.4%
.JOBS	366	0	0.0%	155	0	0.0%	121	0	0.0%
.MOBI	29198	476	1.6%	30557	586	1.9%	28060	545	1.9%
.MUSEUM	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)	n/a (4)
.NAME	2629	187	7.1%	2427	131	5.4%	2242	152	6.8%
.NET	310089	5748	1.9%	303018	8350	2.8%	298958	8237	2.8%
.ORG	173197	2515	1.5%	176469	2647	1.5%	172376	2449	1.4%
.PRO	1543	14	0.9%	1350	44	3.3%	1608	54	3.4%
.TEL	12764	85	0.7%	7622	46	0.6%	6219	28	0.5%
.TRAVEL	420	25	6.0%	404	0	0.0%	324	2	0.6%
Totals	2787163	63535		2848103	62675		2793867	64396	

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Exhibit 2

History of Exemption Requests
(April – August 2009)

TLD	Month	Registrar	Basis of Request	Number of Names Requested	Operator Response/Rationale
.TEL	April	CENTROHOST CJSC (IANA #1426)	Defect in software caused registrations to be added for 3-year terms rather than 1-year terms.	252	Operator approved the request. The event occurred during the registrar transition from Landrush (3-year terms) to General Availability (1-year terms) registration periods.
.COM	June	Domain The Net Technologies (IANA # 10007)	Fraudulent registrations	12	Operator declined the response as it does not recognize fraud as an extraordinary event.
.COM	July	Answerable.com (l) Pvt. Ltd. (IANA #630)	Domains used to phish genuine sites and other random deletions	207	Operator declined the response as it does not recognize fraud as an extraordinary event.
.COM	July	Moniker Online Services, Inc. (IANA #228)	Paypal fraud and phishing	6992	Operator declined the response as it does not recognize fraud as an extraordinary event. Further, documentation provided was incomplete and the result was a credit was not issued for 3915 names.

TLD	Month	Registrar	Basis of Request	Number of Names Requested	Operator Response/Rationale
.COM	July	Ranger Registration (Madeira) LLC. (IANA #241)	1. Business solution to reallocate business activities across two credentials. 2. Registrant abuses that resulted in numerous registrations being added, deleted and re-added multiple times within the AGP to avoid paying for the registration.	1961	Operator approved the request and notified registrar that they need to improve their systems to catch the scenario identified in part 2 of the request as future exemptions will not be granted.
.NET	July	Moniker Online Services, Inc. (IANA #228)	Fraud and phishing	162	Registrar did not exceed AGP allowance - no action required by operator.
.NET	July	Ranger Registration (Madeira) LLC. (IANA #241)	1. Business solution to reallocate business activities across two credentials. 2. Registrant abuses that resulted in numerous registrations being added, deleted and re-added multiple times within the AGP to avoid paying for the registration.	240	Operator approved the request and notified registrar that they need to improve their systems to catch the scenario identified in part 2 of the request as future exemptions will not be granted.

TLD	Month	Registrar	Basis of Request	Number of Names Requested	Operator Response/Rationale
.NET	August	Registration Technologies, Inc. (IANA #321)	Fraud	9	Registrar did not exceed AGP allowance - no action required by operator
.COM	August	Registration Technologies, Inc. (IANA #321)	Fraud	193	Operator declined the response as it does not recognize fraud as an extraordinary event