

Public Comments-Report Template (v1.2)

Overview:

This template is being provided to assist Staff in the preparation of a report that summarizes and, where appropriate, analyzes community comments. Please save the document in either *.doc or *.pdf format and submit to: web-admin@icann.org. For presentation consistency and to preserve formatting, all Staff Reports will be uploaded to the forum in PDF format; text reports will no longer be supported.

Instructions:

- **Title:** Please enter the exact title that was used in the original Announcement.
- **Comment Period:** Enter the original Open Date and Close Date/Time (*Format: Day Month Year, e.g., 15 June 2011; Time should be expressed in UTC*). Please note if any extensions were approved, e.g., “Extended to Day Month Year [UTC Time]”.
- **Prepared By:** This field will accommodate a situation where a report is developed by an individual or group other than the principal Staff contact, e.g., a Working Group.
- **Important Information Links:** Do not enter any information in this section; Web-Admin will provide the appropriate links.
- **Section I: General Overview and Next Steps**

Please use this area to provide any general summary or highlights of the comments and indicate the next steps following publication of the report. (*Note: this field will auto-text wrap*).

- **Section II: Contributors**

Please use the tables provided to identify those organizations/groups and individuals who provided comments. It is not necessary to identify “spammers” or other commenters who posted off-topic or irrelevant submissions. In addition, if there is a large number of submissions, it is acceptable to characterize the respondent communities rather than attempt to list them individually in tables.

- **Section III: Summary of Comments**

This section should provide an accurate, representative, and thorough review of the comments provided. As the disclaimer explains, this is a summary only of the contributions that the author determines appropriate to the topic’s purpose. Authors are cautioned to be conscious of bias and avoid characterizing or assessing the submissions. If an analysis of the comments is intended, please use Section IV below. (*Note: this field will auto-text wrap*).

- **Section IV: Analysis of Comments**

Please use this section for any assessments, evaluations, and judgments of the comments submitted and provide sufficient rationale for any positions that are advocated. If an analysis

will not be undertaken or, if one will be published subsequently, please add a note to that effect in this section. (Note: this field will auto-text wrap).

Note: You may also utilize, for this section, the Public Comment Issue Tracking Checklist template, which is available at:

<https://wiki.icann.org/display/welcometofrms/Welcome+to+Forms>.

Translations: If translations will be provided please indicate the languages below:										

Report of Public Comments

Title:	Expired Registration Recovery Policy										
Publication Date:	14 December 2012										
Prepared By:	Steve Gobin										
Comment Period:					Important Information Links						
Open Date:	11 October 2012				Announcement						
Close Date:	18 November 2012				Public Comment Box						
Time (UTC):	23:59				View Comments Submitted						
Staff Contact:	Steve Gobin					Email:	steve.gobin@icann.org				
Section I: General Overview and Next Steps											
<p>The Registrar Accreditation Agreement between the registrars and ICANN contains a number of provisions outlining the obligations of registrars to communicate the details of their deletion and auto-renewal policies to new registrants. However, because of diverse registrar business practices in the way registrations are handled after they expire, some registrants might not fully understand their available options for recovering domain names post-expiration. Many registrars currently offer post-expiration grace periods of varying lengths, during which registrants can renew expired names. Similarly, many gTLD registries and registrars offer registrants a redemption service, allowing registrants a certain amount of time to redeem names after they are deleted.</p> <p>The proposed Expired Registration Recovery Policy is intended to help align registrant expectations with registrar practices by establishing certain minimum communication requirements and making renewal and redemption of registrations uniformly available in prescribed circumstances. When the Policy is finalized, ICANN will create educational materials in consultation with interested stakeholders to help registrants properly manage their registrations.</p> <p>The proposed Policy will be amended based on the submitted comments and the amended document will be submitted to the PEDNR Review Team.</p>											
Section II: Contributors											

At the time this report was prepared, a total of [number] (n) community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
ALAC	ICANN At-Large Staff	ALAC

Individuals:

Name	Affiliation (if provided)	Initials
Alan Greenberg	PEDNR WG and PEDNR IRT	AG
Mike O'Connor		MOC
Michele Neylon	Blacknight Internet Solutions Ltd. / PEDNR WG	MN

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

Most of the submitted comments related to the reference to resellers in sections 4.1.2 and 4.2.3 of the proposed ERRP. None of the commenters disagreed in principle with the obligation on resellers to comply with the noted provisions. The comment by MN explained that the PEDNR Working Group consciously omitted reference to resellers in the belief that contractual obligations applicable to ICANN-accredited registrars (such as those in sections 4.1.2 and 4.2.3 of the proposed ERRP) are equally applicable to resellers of those registrars. Therefore, the reseller-specific language was believed by MN to be unnecessary. Subsequent comments revealed an apparent lack of clarity about the way obligations of the RAA and incorporated Consensus Policies apply to resellers.

ALAC requested ICANN Staff to clarify whether existing language in section 3.12 of the 2009 RAA would require resellers to post information such as that within the proposed ERRP sections 4.1.2 and 4.2.3 on the resellers' websites. Staff responded in the negative. The reseller website posting obligations in the proposed ERRP could only be enforced if explicitly included within the ERRP. MOC expressed that, given the potential for misunderstanding by members of the GNSO, other consensus policies might contain provisions that were believed to apply to resellers that actually might not. ALAC also expressed a view similar to MOC about the potential inapplicability of other provisions of the RAA and the Consensus Policies in the case of reseller-managed registrations. ALAC's statement supported continued inclusion of the references to resellers in the proposed ERRP because it would be the only way to make the particular disclosure requirements of the ERRP applicable to resellers.

AG expressed that the resellers referred to in sections 4.1.2 and 4.2.3 of the proposed ERRP are resellers of registrars, but that it is unclear if the proposed Policy would apply to resellers of resellers.

AG also proposed the following three amendments (unrelated to resellers):

1) Replacing the Section "For the last eight consecutive days" in Paragraph 2.2.3 of the proposed ERRP with "For at least the last eight consecutive days" or "For no less than the last eight consecutive days" because the current wording contradicts one of the PDP Recommendations and was subsequently accidentally introduced.

2) Replacing the sentence "To be clear, this requirement applies at any time during which the registration is renewable by the RAE, not just during the eight-consecutive-day period described in paragraphs 2.2.2 and 2.2.3" in the "Post-Expiration Renewal" sub-section of the Notes with "To be clear, this requirement applies at any time during which the registration is renewable by the RAE, not just during the entire period described in paragraphs 2.2.2 and 2.2.3." as indeed according to paragraphs 2.2.2 and 2.2.3 of the proposed ERRP, the actual period may be less than or more than eight days.

3) Amending Sections 4.1 and 4.1.1 in order to reflect the PDP Recommendation 5, which states that the fee(s) charged for a post-expiration renewal also has to be stated at the time of registration (and has to be included in the Registration Agreement), while the above-mentioned Sections imply that having the renewal price on the website at the time of registration is sufficient, but does not imply that the renewal price must be stated at the time of registration.

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

With regard to questions raised about resellers' obligations, it is important to note that all of the provisions of the RAA and incorporated consensus policies apply to all gTLD registrations and are binding on all ICANN-accredited registrars, regardless of whether a domain name is registered directly through the registrar or through a reseller. In the case of domain names registered via a reseller, some of the registrar's obligations might be fulfilled by a reseller rather than by the registrar (e.g. the reseller might send the annual [Whois Data Reminder Policy](#) notice to its customers or the Form of Authorization to the transfer contact in case of an [inter-registrar transfer](#)) but the registrar remains responsible for compliance with those provisions. However, where the ERRP requires posting of certain information on the registrar's website, the registrar would comply by posting the required information on its own site. In order to create an obligation for resellers to also post the information on their own websites, the policy must explicitly require registrars to require their resellers to post the information on their sites. This is why the current, proposed language of the ERRP specifically contains such a requirement.

Staff will utilize the enumerated proposals by AG to clarify the policy language, as appropriate. It is noted that, with regard to the third proposed amendment by AG, the ERRP technically requires communication of renewal pricing at the time of registration as this must be included in the registration agreement, which is also required in order to create a registration. But Staff will consider whether a more conspicuous posting of the renewal fees could be appropriate and, if so, revise the applicable policy language accordingly.